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No. 72-1251

In the

Supreme Court of the United States

OCTOBER TERM, 1972

STANDARD OIL COMPANY OF CALIFORNIA,
Appellant,

vs.

UNITED STATES OF AMERICA

On Appeal from the United States District Court for the Northern District of California

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Motion to Recall Mandate and for Leave for District Court to Consider Motion to Set Aside Judgment for Fraud Upon the Court, Pursuant to Rule 60(b), Federal Rules of Civil Procedure

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To the Honorable Chief Justice and to the Associate Justices of the Supreme Court of the United States:

STANDARD OIL COMPANY OF CALIFORNIA ("Standard") moves this Court to recall its mandate in this case and to grant leave to the United States District Court for the Northern District of California to consider a motion by Standard to set aside the judgment of the District Court for fraud upon the Court, pursuant to Rule 60(b), Federal Rules of Civil Procedure:

This motion is based upon the following facts:

(1) In this civil suit, the United States obtained a judgment against Standard for violations of Section 3 of the Sherman Act.

(2) In a subsequent treble damage action based upon the Government decree, Standard has discovered:

(a) The treble damage plaintiff, who was a material witness in the suit by the United States, failed to produce relevant documents in his possession called for by a subpoena duces tecum.

(b) The agent of the treble damage plaintiff, who was a material witness in the suit by the United States, failed to produce relevant documents in his possession despite repeated requests by Standard;

(c) The attorney who was retained by the treble damage plaintiff during the pendency of the suit by the United States, in connection with the contemplated treble damage action against Standard, failed to produce relevant documents in his possession called for by a subpoena duces tecum, and falsely represented to Standard that there were no additional relevant documents in the files of the treble damage plaintiff, the agent, or his own files, or in the files of other attorneys consulted by him.

(d) The documents which were not produced in this suit disclose facts which were important to Standard's defense, which contradicted the testimony of the treble damage plaintiff cited by the District Court in support of a finding in this suit, and which on cross-examination would have put a different light on the testimony of witnesses and the information in other documents.

(e) The Department of Justice failed to produce for Standard in this suit documents received by it from the treble damage plaintiff's agent after trial, but before the hearing on relief, which documents had been requested by Standard prior to trial, and which had been called for by the District Judge in connection with the relief proceedings. One of these documents contradicted a finding which had been proposed by the United States and entered by the Court.

(f) The treble damage plaintiff's agent testified that documents not disclosed to Standard in this suit were in his files and were made available to the Department of Justice prior to trial. The Department of Justice did not produce these documents to Standard, despite requests by Standard.

Because this Court has affirmed the judgment of the District Court for the Northern District of California which heard this suit, Standard must first request this Court to recall its mandate and to permit the United States District Court for the Northern District of California to consider a motion under Rule 60(b), before the motion can be filed in the District Court.

This motion makes that request. The motion is made in the interest of securing justice for Standard and preserving the integrity of the judicial process. It is based upon the facts set forth herein, upon the brief and appendix filed by Standard in support of this motion, and upon the records of this Court in this litigation.

Dated: June 21, 1976.

Respectfully submitted,

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STANDARD OIL COMPANY OF CALIFORNIA ("Standard") submits this brief in support of its motion to recall the mandate of this Court, and for leave for the District Court to consider a motion to set aside the judgment of that Court for fraud upon the Court, pursuant to Rule 60(b), Federal Rules of Civil Procedure.

A. PRELIMINARY STATEMENT

In September, 1969, the United States brought a civil action against defendant Standard in the United States District Court for the Northern District of California under Section 4 of the Sherman Act, 15 U.S.C. § 4 (26 Stat. 209, as amended). The complaint alleged violations of Section 3 of the Sherman Act, 15 U.S.C. § 3 (26 Stat. 209, as amended),[1] in the sale and distribution of petroleum products in American Samoa.[2]

In June, 1972, a trial was held in the District Court, sitting without a jury. The trial lasted eight court days. The United States offered the testimony of two witnesses, Standard the testimony of four witnesses; the parties designated the deposition testimony of some 32 witnesses for inclusion in the record, representing 1,800 pages of transcript; there were 1,100 documentary exhibits offered and received in evidence.

In October, 1972, the District Court entered its findings of fact and conclusions of law, adopted verbatim from the findings of fact and conclusions submitted by the United States.[3]

In December, 1972, the Court entered its judgment; on June 4, 1973, this Court summarily affirmed the judgment

---

[1] Section 3 provides in pertinent part: "[e]very contract, combination * * * or conspiracy, in restraint of trade or commerce in any Territory of the United States * * * is declared illegal."

[2] In the October Term, 1971, this Court held in this case that Section 3 of the Sherman Act applies to American Samoa, reversing the District Court (*United States v. Standard Oil Co.* (1972) 404 U.S. 558).

[3] The District Court held that Standard had violated Section 3, by (1) entering into a combination and conspiracy to restrain and monopolize the distribution and sale of petroleum products in American Samoa (a) in 1956 with a former Governor of American Samoa, since deceased, and with the former Attorney General of American Samoa, later Deputy High Commissioner of the Trust

of the District Court, on the basis of the jurisdictional statement and the motion to affirm (*Standard Oil Company of California* v. *United States* (1973) 412 U.S. 924).[4]

On July 3, 1973, this Court sent a certified copy of its judgment to the District Court.[5]

B. PROCEDURAL BACKGROUND OF THIS MOTION

In May, 1974, a treble-damage plaintiff brought suit against Standard in the United States District Court for the Central District of California under Section 4 of the Clayton Act, 15 U.S.C. § 15 (38 Stat. 371) (*William R. McCook v. Standard Oil Company of California, et al.*, No. CV 74-1190 HP). The other defendants were Van Camp, Star-Kist, and Pan Am. The plaintiff alleged that he was a potential entrant into the petroleum market in American Samoa who had been excluded by the illegal conduct of Standard, joined in by the other defendants. The complaint against Standard was based, in part, upon the findings and judgment in the prior case, including a specific finding that

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Territory of Micronesia, (b) since 1956 with Van Camp Sea Food Company, a customer in Samoa, and (c) since 1963 with Star-Kist Foods, Inc., a customer, and by (2) entering into illegal requirements contracts with Van Camp, Star-Kist, and Pan American World Airways, Inc., for the purchase of petroleum products in American Samoa.

[4] The judgment (1) enjoined Standard from continuing or renewing the combination and conspiracy, (2) enjoined Standard from entering, continuing or renewing any requirements contracts with customers in American Samoa, and (3) ordered Standard to share the petroleum storage facilities in American Samoa with other suppliers on a shared-cost basis.

[5] In cases coming from federal courts, a certified copy of this Court's judgment is sent to the lower court in lieu of a formal mandate (Rule 59(3), Rules of the Supreme Court of the United States).

plaintiff had been wrongfully excluded by Standard from the petroleum market in Samoa.[6]

In August, 1974, the treble-damage plaintiff filed a motion for summary judgment as to liability of defendant Standard alone; plaintiff contended that the issues of liability had been fully litigated in the prior suit, and that Standard was unable to produce any new, previously unobtainable evidence (A-739-740),[7] which would produce a different result. On February 7, 1975, the District Court denied the motion for summary judgment, holding that Standard was entitled to a jury trial.[8]

In April, 1975, Standard initiated discovery proceedings in the treble damage suit. Thereafter, from June to December 1975, Standard discovered, in response to a request for production of documents and subpoenas duces tecum, documents not previously disclosed to Standard in the files of plaintiff, his agent who participated in the collection of documents in the prior suit, and his attorney. These documents were not produced for Standard in the prior suit,

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[6] Finding 67 in the prior case provided:

> "Because of SoCal's dominant position in American Samoa, its illegal combination and conspiracy with the canners and the illegal requirements contracts, many potential competitive petroleum suppliers have been foreclosed from the market, including the following:
>
> * * * * * *
>
> "William R. [TR 2064-2065, TR 2071, TR 2074; GX 228] McCook"

[7] As used herein, "A" refers to the printed appendix to this motion.

[8] The District Court held that the judgment in the prior case created a rebuttable, not a conclusive, presumption of liability against Standard, under Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a) (38 Stat. 731, as amended), which provides that: "[a] final judgment * * * rendered in any civil * * * proceeding brought by * * * the United States under the antitrust laws * * * shall be prima facie evidence against such defendant in any action * * * brought by any other party against such defendant under said laws * * * as to all matters respecting which said judgment * * * would be an estoppel as between the parties thereto * * *."

despite subpoenas duces tecum by Standard to the plaintiff and the attorney, and requests by Standard to the agent.[9]

In March, 1976, Standard discovered in response to subpoenas duces tecum, in the files of a law firm retained by plaintiff's attorney in the prior suit, another group of relevant documents. These included originals or copies of (1) documents which had, in fact, been delivered to the Department of Justice in the prior suit and then to Standard; (2) documents which had not been produced for Standard in the prior suit, but which had been produced for the first time in the treble damage suit from the files of plaintiff and his agent; and (3) still further new documents which had not been produced either in the prior suit or to that point in the treble damage suit.[10]

In February, 1976, Standard noticed the depositions of the Department of Justice and the Antitrust Division trial attorney in the treble damage suit, and served a subpoena duces tecum upon each deponent.[11] The Department of Justice and the trial attorney moved for a protective order that the notices of deposition be vacated and the discovery not be had on the ground, inter alia, that the trial attorney did not recall receiving, prior to trial, any documents from the files of the agent, other than a specific set which had been produced for Standard by the Department in the prior suit.[12] However, attached to an affidavit in support of the motion by the trial attorney were a number of new documents, including a letter written by the treble damage plaintiff's agent to the trial attorney a few months after the judgment of the District Court was affirmed by this Court, to which were appended 12 letters or memoranda. These 12 letters and memoranda were covered by the pretrial subpoenas of Standard, but had not been produced at any time in the prior suit, either before trial or after trial.[13] One letter was highly relevant. It contradicted the testimony of McCook (the treble damage plaintiff), cited in the findings adopted by the District Court, that he was foreclosed from American Samoa by Standard's price reduction (A-191).

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[9] The agent attempted to explain his failure to produce documents by stating that he had delivered all his documents to the Department of Justice prior to trial, and in subsequent searches of his files, did not look into the materials returned by the Justice Department to him, assuming these documents had been turned over to Standard (see pp. 34-35, infra).

[10] In the prior suit, the plaintiff's agent had sent these documents to the law firm for analysis concerning a possible treble damage suit.

[11] The subpoenas duces tecum requested each deponent to produce all documents received in the prior suit from the treble damage plaintiff, his agents, or his attorneys, including all correspondence and memoranda relating to the transmittal of documents to or from those persons.

In March, 1976, the District Court for the Central District of California granted the motion by the Department of Justice and the trial attorney for a protective order and ordered that the discovery not be had by Standard in the treble damage suit. Instead, the District Court, having reviewed the briefs submitted by Standard which outlined the discovery procedures in the prior case, noted that:

> "it * * * seems to me that what you are saying is attacking the integrity of the process, the integrity of the Justice Department, the integrity of [the trial judge's] ruling. And if I were [the trial judge] I would certainly want to know about it" (A-745).

And the District Court added:

> "I certainly think that he [the trial judge] not only has an interest in the matter, because he did decide the case, but that some serious questions have been raised concerning the integrity of that case, and those matters ought to be laid before him under Rule 60" (A-747).[14]

In March - April, 1976, the Department of Justice and Standard sent to the trial judge, Northern District of California, copies of the briefs and motion papers filed in the Central District of California. In addition, the Department of Justice, Standard and the treble damage plaintiff brought to the attention of the trial judge the comments by the Central District; Standard pointed out the conflicts between the testimony of plaintiff's agent and the ex-parte affidavits of the Department of Justice concerning the production of documents prior to trial in the earlier suit.[15]

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[12] The Department of Justice and the trial attorney further contended that all unprivileged documents sought by Standard were either already in Standard's possession or were being supplied voluntarily; that the production of documents had already been extensively explored in the Government case; and that if Standard were contending that the Government had acted improperly in that case, the proper forum was the District Court for the Northern District of California before the trial judge under Rule 60(b), Federal Rules of Civil Procedure.

[13] Instead of disclosing the new documents to the District Court or to Standard, the United States returned them to the treble damage plaintiff's agent but retained copies of the documents for its own files. Later, in response to an order by the District Court for the Northern District of California to produce all documents received from third parties post-trial on the issue of relief, the United States produced the letter written by the agent, but not the 12 enclosed documents (see pp. 63-65, infra).

[14] In the proceeding before the Central District, Standard urged that the test to be used in the treble damage suit to determine whether plaintiff should be permited to use, as *prima facie* evidence, the judgment in the prior suit, where he had failed to produce documents in that suit, was different than the standards that might be applied by the Northern District or by the Supreme Court in vacating the judgment, or amending the findings, in the prior suit on grounds of fraud, newly discovered evidence, or the like. It was Standard's position in the treble damage suit that plaintiff should not be permitted to use the judgment in the prior suit as evidence, (a) where Standard did not have a full and fair opportunity to defend (*Blonder-Tongue v. University Foundation* (1971) 402 U.S. 313, 334; *Rachal v. Hall* (5 Cir. 1970) 435 F.2d 59, 62-63, certiorari denied (1971) 403 U.S. 904); (b) where the plaintiff ignored the subpoenas duces tecum in the prior suit and failed to produce all relevant documents, and thus because of unclean hands was not entitled to rely on that judgment as evidence in his own suit (e.g., *Keystone Co. v. Excavator Co.* (1933) 290 U.S. 240, 244; *Shawkee Mfg. Co. v. Hartford Co.* (1944) 322 U.S. 271, 273); and (c) where the probative value of the judgment as evidence was outweighed by the danger of prejudice to Standard because of the incomplete record in the prior suit (Rule 403, Federal Rules of Evidence).

In April, 1976, the trial court, by letter to Standard and to the Department of Justice, informed the parties that as far as it was concerned the prior suit was closed, and that all further correspondence should be directed to the United States District Court for the Central District of California (A-733).

In April, 1976, the District Court for the Central District, in the treble damage suit, denied a motion by Standard for reconsideration of its ruling granting a protective order and ordering that discovery not be held.[16] The Court stated that

the judgment in the prior case would be admitted in evidence in the treble damage suit, regardless of a withholding of documents by the plaintiff or by the Department of Justice; it stated, again, that Standard's remedy was a motion under Rule 60 (A-752).

In May, 1976, Standard deposed an attorney and his law clerk who reviewed documents submitted to them by the agent for plaintiff in 1969, shortly after the United States' complaint was filed, in connection with a possible treble damage suit against Standard. The law clerk testified that the agent brought in at least one, perhaps two, grocery boxes of documents. He stated that one grocery box was more than one-half full of documents and that he spent two or three days, eight hours per day, reviewing the documents. The law clerk and the attorney identified a number of documents which they had seen in 1969, including documents not produced for Standard in the prior suit, and documents not produced by plaintiff, his agent, or attorney in the treble damage suit, but located in the files of the law firm consulted by plaintiff's attorney in the prior suit. This motion then followed.

C. RULE INVOLVED

Rule 60, subdivision (b), provides in pertinent part:

> "On motion and upon such terms as are just, the court may relieve a party * * * from a final judgment * * * for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) * * * it is no longer equitable that the

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[15] Standard requested a conference with the District Court for the Northern District of California at an early date to determine what steps could, or should, be initiated in this suit noting that a judgment of the Supreme Court was involved (A-719, 732); the Department of Justice took the position that the proper method for dealing with the failure to produce evidence was not to hold a conference, but to require Standard to set forth in a motion to the District Court the relief which Standard sought, and the basis for seeking such relief (A-725-726).

[16] Standard, in support of the motion for reconsideration, urged that apart from questions of the admissibility of the judgment as evidence, the depositions of the Department of Justice and the trial attorney sought evidence on the following subjects: (a) whether the plaintiff and his agent were telling the truth in the treble damage suit with respect to the location and discovery of documents, (b) the weight to be given by the jury to the prior judgment, if admitted in evidence, because of the inference that the documents were harmful to plaintiff if Standard could establish that plaintiff failed to disclose the documents not only to Standard, but also to the Department of Justice; (c) whether Standard had obtained in the treble damage suit all the documents of plaintiff and his agent because of the reservation expressed by plaintiff's counsel that some documents might previously have been delivered to the Department of Justice by the agent but not returned; and (d) the disposition of documents sent by an attorney consulted by the agent to the Department of Justice in December, 1969, shortly after the agent had delivered documents to the Justice Department.

judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time * * *. * * * This rule does not limit the power of a court * * * to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action."[17]

D. JURISDICTION

Where a judgment of a District Court has been affirmed on appeal, it is beyond the power of the District Court to entertain a motion to set aside the judgment under Rule 60(b), or otherwise to deviate from the mandate of the appellate court, without first obtaining the permission of the appellate court (*In Re Potts* (1897) 166 U.S. 263, 267-268; *Wilson Research Corp. v. Piolite Plastics Corp.* (1 Cir. 1964) 336 F.2d 303, 305). In proceedings to set aside a judgment for fraud upon the court, or other grounds specified in Rule 60(b), the appropriate procedure is to request the appellate court, in this instance the Supreme Court, to recall its mandate, and to grant leave for the District Court to consider the motion under Rule 60(b) (e.g., *Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 239-240; *In Re Potts* (1897) 166 U.S. 263, 267-268; *Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1963) 320 F.2d 594, 602, n. 11).[18]

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[17] For reasons (1), (2), and (3), the motion must be made not more than one year after the judgment was entered.

[18] In the Tenth Circuit, it has been held unnecessary to obtain leave of the appellate court to file a motion under Rule 60(b) in the District Court, where the judgment of the District Court has been reviewed on appeal (*Wilkin v. Sunbeam Corporation* (10 Cir. 1968) 405 F.2d 165, 166), but the Tenth Circuit minority view has been criticized by a respected commentator (7 Moore's Federal Practice (2d Ed. 1975) par. 60.30[2], p. 429). In the Second Circuit, the procedure is unresolved (*Doe v. Hodgson* (5 Cir. 1974) 500 F.2d 1206, 1207).

The motion by Standard is timely, being made within one year after its discovery of the failure to produce documents in the prior suit, within four months after the Department of Justice delivered to Standard the documents it received post-trial in the prior suit, within three months after Standard uncovered further documents in the files of the law firm consulted by plaintiff's attorney in the prior suit, and two months after the denial by the District Court, Central District of California, of Standard's request for reconsideration of its ruling on the protective order.

E. SUMMARY OF FACTS AND ARGUMENT

The present case transcends the interests of the parties. It involves a tampering with the administration of justice and a wrong against the institutions set up to protect and safeguard the public, which led to a judgment in the trial court, affirmed by this Court, on an incomplete record. It involves a failure by two material witnesses, and if the testimony of one witness is believed, by the Department of Justice and its trial attorney, to produce documents called for by subpoenas duces tecum and repeatedly sought by Standard in the court below.[19]

When a motion is made to recall a mandate to permit a subsequent motion in the trial court for relief pursuant to Rule 60(b), there must be a detailed showing of evidence to warrant relief. This brief makes that showing.

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[19] In *United States v. Liddy* (D.D.C. 1972) 354 F.Supp. 208, the District Court stated:

> "The purpose and importance of subpoenas *duces tecum* * * * to the judicial process are well known. * * * This duty to come forward with information relevant to the controversy at hand has been recognized as a fundamental instrument of justice since the earliest days of Anglo-American law" (354 F.Supp. 208, 211).

The facts may be briefly summarized:

In October, 1969, the Department of Justice received certain documents from an agent of the treble damage plaintiff, who at the time was assisting the treble damage plaintiff in the preparation of a claim against Standard based upon an eventual judgment in this case.

In April, 1970, during pre-trial discovery, the Department of Justice delivered to Standard 62 documents, comprising 100 pages, from the files of plaintiff's agent. Standard did not receive an additional 78 documents, comprising 116 pages—not including 81 pages of duplicates—in the files of plaintiff, the agent, and several attorneys. Because Standard knew of the proposed treble damage suit, it made a determined effort to discover these documents. In disregard of subpoenas duces tecum, these documents were not produced and Standard, without the benefit of the documents, went to trial on an incomplete record.

In August, 1973, the District Court ordered separate hearings to be held on the relief to be decreed in the suit by the United States. In connection with those hearings, plaintiff's agent sent to the Justice Department documents from his files prepared during the period in dispute at trial, which had not been produced prior to trial, and which contained facts inconsistent with plaintiff's testimony. Instead of disclosing these documents to Standard or to the District Court, the Justice Department returned the documents to the agent, and thereafter failed to produce them for the Court or Standard, despite an order by the Court to produce documents received post-trial on the issue of relief.

The argument may be briefly summarized:

The judgment below, and findings upon which the judgment was based, should not be permitted to stand where

a material witness failed to produce exculpatory documents in his possession which were relevant to the issues in the case. Further, because of the unclean hands of the treble damage plaintiff, the District Court should strike the findings relating to him, and enter an order denying prospective use of the judgment as evidence in the treble damage suit.

In addition, a failure to produce evidence post-trial, the importance of which could not have escaped the United States' attention, warrants setting aside the judgment and ordering a new trial, regardless of the motives of the Justice Department in failing to produce the documents. This is required by standards of fairness inherent in due process; further, it is warranted by this Court's supervisory powers over the lower federal courts.

Finally, if there was a suppression of documents by the United States prior to trial, the judgment should plainly be set aside. Because the treble damage plaintiff's agent has testified that he made specific documents available to the Justice Department, which were not produced for Standard, and because he testified that the documents he delivered to the attorneys consulted by him were also delivered to the Justice Department, there is at least a *prima facie* case of suppression by the Department of Justice which warrants a hearing in the District Court.[20]

When viewed against the documents produced in the prior case, the documents which were withheld are relevant, undermine the testimony of two witnesses, would have

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[20] If the District Court determines that the Justice Department did not suppress documents, but that the plaintiff's agent turned over to other attorneys documents not produced for the Department of Justice, there are further grounds for the District Court to strike the findings relating to the plaintiff and to deny plaintiff the prospective effect of the judgment in the treble damage suit.

been useful in cross-examination of other witnesses, and put the testimony and evidence with respect to at least one other supplier, Shell, in a different light.

F. STATEMENT OF FACTS

The discovery of the suppression of evidence in this case had a long and tortuous history. In the Addendum to this brief we set out this history, step by step, from the institution of suit by the United States to the recent production of theretofore undisclosed documents in the files of McCook's San Diego attorneys. The chronology shows why Standard suspected that documents had not been produced, why Standard made repeated requests for documents to the treble damage plaintiff, his agent, his attorney, and the Department of Justice, and why the failure to produce documents was not inadvertent.

A reading of the facts disclosed in this chronology will, we submit, demonstrate the need for relief. We summarize these facts as follows:

1. Principal Participants in Discovery Proceedings; Documents, Testimony of Turnbull, McCook, in Suit by United States:

First, we set forth the names of the principal participants in the discovery proceedings: Bernard M. Hollander, Esq., trial attorney, Antitrust Division, Department of Justice; Raymond C. Turnbull, agent and "legman" for plaintiff in the preparation of a treble damage suit (A-508-509), who had his own files concerning American Samoa; William R. McCook, the treble damage plaintiff, who had separate files concerning his interest in American Samoa;[21] Richard B. Lynn, Esq., attorney for Turnbull and McCook. The other participants will be identified as they appear.

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[21] The interest of McCook in American Samoa was based upon activities of Turnbull, as his agent or partner.

Second, we note briefly the incomplete account which was presented in this suit by the documents of Turnbull and McCook, together with their testimony: in 1961-1965, there was an investigation by Raymond C. Turnbull, a promoter, of various business opportunities in American Samoa, including petroleum storage facilities in competition with Standard; in 1963-1965, there were various inquiries by Turnbull concerning petroleum supply in American Samoa, resulting in securing a supply of petroleum products and arranging for a terminal to be financed by McCook; in August, 1965, there was a proposal submitted by McCook to Governor H. Rex Lee for petroleum supply in American Samoa, but McCook did not hear back from Governor Lee; in view of two price reductions by Standard in diesel fuel, one in July, 1965, and one in October, 1965, McCook was "shot out of the saddle" (A-486) and was unable to enter the market in Samoa (A-487-488).

2. Subpoenas, Requests to Produce Documents in Suit by United States:

Standard made a determined effort to collect all relevant documents on the issue of liability in the suit by the United States. Shortly after the complaint was filed, Standard filed a motion to produce documents (A-267-270, 276-277); the United States stipulated to produce documents in its own files, as well as documents that it had obtained from third parties (A-279-282). Further, Standard served subpoenas duces tecum upon McCook and Lynn (A-352-357); it made repeated requests to Lynn, who represented Turnbull as well as McCook, to produce all documents from the files of Turnbull and McCook.

Turnbull delivered documents prior to trial to the United States. The United States, in turn, delivered to Standard a set of documents—62 documents—100 pages—from the Turnbull files, numbered TU-001 - TU-100.[22] Prior to trial Lynn and the United States represented to Standard that there were no additional documents; we set forth those representations, in chronological order, below:

a. January 13, 1971 — Written representation by Lynn to counsel for Standard:

> *"Those documents previously marked TU-001 through TU-100 constitute the totality of the Turnbull file* * * *" (A-328) (emphasis added);

b. March 23, 1971 — Oral representation by Lynn at his deposition by Standard pursuant to subpoena duces tecum:

> "Q. In other words, *is what you are telling me is that the documents that have previously been produced and numbered TU-001, et cetera, are all the documents in your possession or control or under the possession or control of Sullivan, Augustine, in San Diego that relate to the various paragraphs of the subpoena?*
>
> "A. *Yes, I can make that representation*" (A-369) (emphasis added);

c. April 23, 1971 — Written representation by Lynn to counsel for Standard:

> *"REF MARKETING PETROLEUM AMERICAN SAMOA. PLEASE BE ADVISED MESSRS. TURNBULL AND McCOOK FILES EXAMINED WEEK ENDING APRIL 17, 1971. YOU HAVE MY ASSURANCE THAT THERE ARE NO FURTHER DOCUMENTS. THIS ASSURANCE IS UNEQUIVOCAL AND IS IN NO MANNER DEPENDENT UPON MY INDEPENDENT JUDGEMENT RESPECTING RELEVANCE"* (A-414) (emphasis added).

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[22] TU-001-TU-100 were the identification numbers given the documents produced by the Department of Justice for Standard in April, 1970, from the files of Turnbull (A-283).

d. May 13, 1971 — Written representation by United States Department of Justice to counsel for Standard:

> "This is in response to your letter of May 5, 1971. As we have repeatedly stated to you, *we recall no documents provided to the Government by Mr. Turnbull which were not marked with TU identification, returned to Mr. Turnbull and provided for your use*" (A-422) (emphasis added);

e. May 18, 1971 — Acknowledgment by counsel for Standard of confirmation from United States that there were no additional Turnbull documents:

> "I appreciate your written confirmation that the Government saw no Turnbull documents other than those which have been marked with a 'TU' identification. * * * Mr. Turnbull has said that he is contemplating an action against Standard (apparently based upon the allegations of the Government complaint) and, for this reason, the rather incongruous absence from his files of documents which we located elsewhere gave me concern" (A-425).

3. Subpoenas, Requests for Production of Documents in Treble Damage Suit:

In the treble damage suit, Standard has discovered a number of new documents not produced in the prior suit brought by the United States. These documents were in the files of (1) Turnbull, (2) McCook, (3) Lynn, (4) the law firm consulted by Lynn and Turnbull in the prior suit with respect to a later, possible treble damage suit, and (5) the Department of Justice.

In summary, 67 new documents—not including 78 pages of duplicates—were produced in the treble damage suit from the files of McCook, Turnbull, and their several attorneys. 60 were completely new to Standard. 7 were copies of documents produced from the files of Turnbull or third parties in the prior suit, but with differentiating notations thereon.

Additionally, 12 new documents, plus 2 photographs, were produced in the treble damage suit from the files of the Department of Justice; the 12 documents, and the 2 photographs, originating from the files of Turnbull, were new to Standard. Of the 12 new documents, a copy of only one had been produced theretofore in the treble damage suit.

In total, 78 new documents, not including duplicates, were produced for Standard in the treble damage suit including 71 completely new documents, and 7 documents with differentiating notations thereon.

Finally, an additional 23 pages were copies of documents which McCook and Turnbull had not produced from their own files in the prior suit, but which Standard and the Department of Justice had obtained from other sources.

G. RELEVANCY OF DOCUMENTS NOT PRODUCED

The documents not produced for Standard in the prior suit contained information relevant to the issues tried by the District Court, and vital to Standard's defense. Indeed, the importance of some of these documents was recognized by Turnbull, who selected 21 of the new documents for review by the law firm in San Diego in connection with its analysis of a possible treble damage suit.

While it could not be expected that out of some 78 new documents, all would be of equal importance, there were a number of new documents which contradicted the testimony of Turnbull and, more importantly, of McCook which was cited in the Government's post-trial brief and adopted by the District Court in support of its findings. Moreover, the new documents put the testimony of these witnesses, and the interests of at least one other petroleum supplier considered by the Court, Shell, in a different light.

In the equity suit brought by the United States, the District Court found three principal types of illegal conduct by Standard which prevented other petroleum suppliers from entering the market in American Samoa:

> (a) possession of the only petroleum facilities pursuant to a lease obtained illegally;
>
> (b) restriction of the available market through requirements contracts; in this aspect of the suit, the issue was whether the supply contracts by Standard with two tuna canneries extended to, and obliged, the fishing fleets serving the canneries to purchase from Standard, or whether the fleets were free to purchase elsewhere;
>
> (c) price reductions by Standard prior to 1965, and in July and October, 1965, which excluded other suppliers.

In the market as it existed in American Samoa 1956-1969, Turnbull and McCook were important figures. They came upon the scene and made a proposal to H. Rex Lee, the Governor of American Samoa, to construct petroleum storage facilities and supply petroleum products in spite of Standard's lease on the existing facilities and its supply contracts with the canners. In addition, the offer by McCook was made just after Standard's price reduction in July, 1965, for diesel fuel to the fishing fleets, and before a similar price reduction for diesel fuel to the Government of American Samoa powerplant on October 25, 1965. In the prior suit, it was the position of the United States that these price reductions foreclosed McCook, and others, from American Samoa (A-734-735).

In the prior suit, McCook testified that he was "shot out of the saddle" after making an offer to supply a full line of petroleum products on August 13, 1965, to the Government of American Samoa, and that he did not hear from Governor Lee concerning the proposal (A-484-486). Without detailing all the information in the documents, we set forth a few significant instances in which the information now produced would have been useful to Standard.

1. Contradiction of Testimony:

In the District Court, Mr. McCook testified that because of the price reduction in July, 1965, to the fishing fleets, he was "shot out of the saddle" in Samoa; to quote the testimony:

> "Q. Was the only reason that you abandoned this is that Standard reduced the prices?
>
> "A. Because we were shot out of the saddle.
>
> "Q. Explain that.
>
> "A. We couldn't see any future. We couldn't sell it for as low a price as it appeared to be sold.
>
> "Q. In your letter to Governor Lee on August 13th you quoted a price of 11.25 per gallon for the diesel fuel to the fishing fleet; correct?
>
> "A. If that is what it says.
>
> "Q. If Standard was quoting 11.95, wasn't your price lower than Standard's?
>
> "A. What was it before that?
>
> "Q. It was 13.95.
>
> "A. It appears to me like we were fighting a losing battle because that was the first of what could have

> been several reductions in price. Obviously, I'm in no position to buck Standard Oil, and when Standard Oil reduced their price it did take a lot of sting out of it and evidently the governor might have had some pressure brought to bear * * *" (A-486-487).

However, the missing documents present a different picture:

(1) a letter dated October 5, 1965, from McCook to Governor Lee, not produced in the prior suit, shows that Mr. McCook was not dissuaded by any past or threatened price cut by Standard from entering the American Samoan market; it states:

> "I just wanted to drop you a note to let you know that I have the balance of the information we discussed on the telephone, covering our supplier's financial strength.
>
> * * * * *
>
> "I would like to point out to you that *we are definitely interested still* and we do feel we could save the Government of American Samoa a sizable amount in their fuel budget if the right terms could be reached, which, incidentally, are still along the lines we discussed" (SDX-246; A-189) (emphasis added).

(2) a letter dated November 16, 1965, from Governor Lee to McCook, not produced in the prior suit, shows that Governor Lee was still communicating with McCook concerning his proposal after Standard's October price reduction. It states:

> "We are still definitely interested in trying to improve our fuel oil distribution system. At the present we are exploring ways and means of obtaining a suitable site to carry out some harbor development for a

> new fuel depot, and I am sure we will want to get back in touch with you in the very near future" (SDX-247; A-190).[23]

(3) a letter dated November 24, 1965, from Turnbull to Dillingham Corporation, not produced for Standard in the prior suit but which was sent to the Department of Justice by Turnbull after the judgment was affirmed by this Court, shows that a month after the last price reduction by Standard in October, 1965, Turnbull and McCook were still prepared to enter American Samoa, subject to the approval of Governor Lee; to quote the document:

> "My associates wish to create a new bulk petroleum facility in Samoa, complete with tankage of six million gallons, docking space for tankers and refueling facilities. With no available deep water frontage in Pago Pago harbor, it appears obvious that the development of Tafuna Bay is warranted * * *.
>
> * * * * *
>
> "Subject to the Governor's approval, my associates are ready to construct a $600,000. terminal" (SDX-4949; A-191).

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[23] At his deposition in the treble damage suit, McCook first said that all his petroleum documents were in a two-drawer file in his garage, from which documents were made available to Lynn in the prior suit, and that he had not found any other petroleum documents in the four-drawer file in his office at any time thereafter, despite numerous searches (A-496-501); on the second day of his deposition, McCook stated that the October 5, 1965 letter, SDX-246, was in the two-drawer file, but that the November 16, 1965, letter, SDX-247, was in the four-drawer file and was discovered within the last one or two years (A-515-518, 521, 522); on the third day of his deposition, he testified that both SDX-246 and SDX-247 were in the four-drawer file and were both discovered within the last one or two years (A-528-529), changing his prior testimony (A-515, 521-522).

At his deposition, Turnbull testified first that he did not know whether document SDX-246 was in his files in October, 1969 (A-587); that the document was in his files in October, 1969 (A-615-616); and finally, that it was not in his files in October, 1969 (A-619).

In the absence of the foregoing documents, the District Court failed to give any weight to one of the TU documents relied upon by Standard—TU-51, a letter dated November 15, 1965, to Governor Lee—in which Turnbull stated that he had a petroleum supply and was waiting for a response from Governor Lee to earlier proposals (A-51).

2. Change in Testimony:

In the prior suit, McCook testified with respect to his proposal to Governor Lee for petroleum supply, that he had no further contacts with Governor Lee after he submitted the proposal in a letter dated August 13, 1965. To quote the transcript:

> "Q. Did you contact Governor Lee after sending this letter or were you contacted by him?
>
> "A. No.
>
> "Q. Did you have any communications of any kind at all with Governor Lee after you sent this letter?
>
> "A. No, I never did" (A-484-485).

On documents not produced in the prior suit, McCook's handwritten notes contain the telephone number of Governor Lee, presumably at Washington, D.C. (A-200). In the treble damage suit, Turnbull has testified that these documents were prepared after the August 13, 1965, proposal (Tr., Turnbull Dep., December 2, 1975, p. 1184); McCook has now testified that he had one, perhaps two telephone calls with Governor Lee after submitting the proposal (Tr., McCook Dep., September 24, 1975, pp. 618-623; A-518-519).[24]

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[24] On these documents not produced (A-200-220), there were other notations made by Turnbull, including corrections or changes in computations, which did not appear on the partial set designated as TU documents (A-61, 81-87).

Because these documents were not produced, Standard was precluded from developing the facts or testing McCook's recollection.

3. New Evidence re Conspiracy with Canners:

SDX-320, 321 and 322 (A-221, 222, 223) were three copies of a document entitled "Briefing on Samoa Terminal," which McCook testified must have been prepared before, or around, the time of the August 13, 1965, proposal to Governor Lee (A-520-521). These documents were not produced for Standard in the prior suit. In that suit, it was the position of the United States, and the District Court so found, that the two canners, Van Camp and Star-Kist, had accepted price reductions from Standard in July, 1965, as part of a conspiracy to exclude other petroleum suppliers from Samoa. Documents 320, 321, and 322 are to the contrary. In paragraph 10, they recite that the fish companies were ready to consider dealing with McCook:

> "Preliminary agreement—all parties—before Lee returns to Pago.
>
> "a. Vince Evich [employee of canner Star-Kist] says *fish companies ready*. Lee to expedite and force agreement. Companies waiting for Lee to push deal" (A-221-223) (emphasis added).

4. Supply Contracts with Canners:

In the prior suit, the United States contended, and the District Court found, that the supply contracts between Standard and the two canners included, as a practical matter, the requirements of the foreign fishing fleets serving the two canners (A-764). This contention was vigorously contested by Standard, which offered evidence showing that it was the understanding of Governor Lee, and others, that the supply contracts with the canners did not require the fishing fleets to purchase petroleum products from Standard. SDX-4708, a letter dated April 21, 1965 (A-172-173), written by Turnbull, not produced in the prior suit, shows that the purchases by the fishing fleets were treated as separate from purchases by canners; to quote the letter:

> "I have proposed to furnish [the Governor's] requirements providing Starkist, Van Camp * * * *and the fishing fleet representatives* agree, by contract, to enter into a long term agreement * * *" (A-172) (emphasis added).

5. Interest in American Samoa by Shell:

In the prior suit, Turnbull testified that the major oil companies he had contacted concerning American Samoa lost interest in the market, and were unwilling to supply or to compete on the Islands (A-474-475). Two letters recently produced from the files of the San Diego law firm show that Turnbull wrote Shell Company (Pacific Islands) Limited in July, 1965, proposing that Shell buy products from Turnbull and market them through its own facilities in American Samoa (A-177), and that in August, 1965, before the McCook proposal, Shell informed Turnbull that it would consider his suggestion and asked him to quote prices (A-183). Shell (Pacific Islands) Limited's continued interest showed that neither Standard's facilities lease, nor its supply contracts, precluded this Shell affiliated company from the market. In its post-trial brief, the United States argued that Shell had looked at the American Samoa market in 1964-1965, and decided not to enter at that time (A-734). The District Court found that Shell had been excluded from American Samoa by Standard's conduct (A-774). In so finding, the Court was unaware of Shell (Pacific Islands) Limited's interest, as shown by the documents not produced.

6. Information re Cross-Examination:

The documents not produced contained information, or leads, which would have been useful on cross-examination in the prior suit. The cross-examination would have developed new avenues of defense, and opened new lines of discovery. We give two examples:

First, in the deposition of Turnbull, Standard asked Turnbull about a telephone call with Mr. Galleon, Asiatic Petroleum, concerning petroleum supply in American Samoa in 1964 (A-44). Turnbull did not remember the name; to quote his testimony:

> "Q. Does that name mean anything to you, Mr. Galleon?
>
> "A. It sure as hell doesn't" (A-474).

Among the documents now produced in the treble damage suit is a letter dated June 5, 1964, from Turnbull to Mr. Paul Gallien, Asiatic Petroleum Corporation, New York, transmitting statistics from a survey made by another oil company for the South Pacific and stating:

> "I have your CIF prices into Fiji, New Caledonia, Western Samoa and New Guinea. *You could compete easily with SoCal in all products* [in American Samoa], and there are other incentives that I would care only to discuss in the event an educated interest was evidenced by your company" (A-152) (emphasis added).

Second, at deposition and later at trial, H. Rex Lee, Governor of American Samoa, 1961-1967, testified that he did not recall McCook (A-489-490). To quote his testimony at deposition:

> "Q. [Counsel for Standard]: Would you mark * * * a letter from * * * McCook to Governor Lee, dated August 13, 1965, and identified as TU 079.
>
> • • • • •

> "Tell me what you know about Mr. McCook, the Oceanic Petroleum Corporation, and his proposal.
>
> "A. I know virtually nothing about him.
>
> "Q. Do you know why he wrote this to you?
>
> "A. At this point I do not. I may have known it at the time.
>
> • • • • • •
>
> "It is my recollection that his name was mentioned in relation to Summit. I have no knowledge of either Mr. Shaw [President of Summit] or of Oceanic other than what we have discussed in the last two days on the basis of documents that you have introduced.
>
> "Q. Do you know who Mr. McCook was?
>
> "A. No.
>
> "Q. Have you ever met Mr. McCook?
>
> "A. I don't recall meeting Mr. McCook. I could have. It's very possible" (A-488-489);

And at trial:

> "Q. Now, Mr. McCook was attracted to American Samoa through the efforts of Mr. Turnbull, was he not?
>
> "A. I do not know.
>
> "Q. You do not know?
>
> "A. I just do not recall Mr. McCook. * * *
>
> • • • • • •
>
> "Q. Now, did you follow up on this proposal, Governor Lee, and have a meeting with Mr. McCook as he suggested in the last paragraph of the letter?
>
> "A. I simply do not recall whether I had a follow-up meeting with him or not. I may very well have. If I received a proposal of this kind, I would probably check it out. I may have discussed it with him on the phone. He may have come to Washington or Pago Pago to see me, but I just—I just do not recall it" (A-492).

The missing documents include a letter from McCook to Governor Lee discussing the August 13, 1965, proposal, and a response thereto by Governor Lee (A-189, 190). Further, the unproduced documents contain references to at least one telephone discussion of the proposal by Governor Lee and McCook (A-189, 190, 200).

H. EXPLANATIONS FOR FAILURE TO PRODUCE DOCUMENTS

Two general categories of explanations have been given, to date, for the failure to produce documents in the prior suit. We discuss them separately below:

1. McCook, Turnbull, Lynn:

In the treble damage suit, plaintiff McCook admits that some of the documents not produced in the prior equity suit were in his files, but states that with two exceptions copies of these documents were given to his attorney, Lynn. He states that the two excepted documents would have been discovered had a thorough search been made.

Turnbull, the agent for McCook, has admitted that a number of documents not produced before were in his files, but states that he made his files and documents available to the Department of Justice.

Plaintiff's attorney, Lynn, had unproduced documents in his possession as late as September, 1975, but states that he was informed by McCook and Turnbull in the prior suit that there were no documents in their files in addition to TU-001 - TU-100, and that he was informed by the attorneys in San Diego that they had no additional documents. The law firm in San Diego had documents in its files not produced in the prior suit, but contends that it was not contacted by Lynn with respect to additional documents in the prior suit.

2. Justice Department:

It has not been the position of the Justice Department, or its trial attorney, that they were deceived by the failure of Turnbull to produce documents, or by the failure of McCook or Lynn to produce documents, or that Standard was not prejudiced by the failure to produce documents. Instead, the Justice Department and its trial attorney have taken two positions:

First, the trial attorney does not recall receiving any Turnbull documents in 1969, apart from the documents marked TU-001 - TU-100, and has already told all he knows in two affidavits (A-694, 701). Second, the recollection of the trial attorney is not in conflict with that of Mr. Turnbull, because Mr. Turnbull does not remember what happened in October, 1969.[25] We discuss each ground separately below:

a. EX-PARTE AFFIDAVITS:

In two affidavits filed in the District Court, Central District of California (A-694-701, 701-711), the Department of Justice trial attorney disclosed that he had knowledge of the following facts concerning the production of documents:

(a) Delivery of documents by Turnbull to the United States in October, 1969;

(b) Receipt of additional documents by the United States from Winton, an attorney for Turnbull, in December, 1969;

(c) Return of documents to Turnbull in November, 1969;

(d) Request by the United States for approval of Turnbull to deliver documents to Standard in April, 1970;

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[25] Government's Reply Memorandum in Support of its Motion for a Protective Order that Defendant's Notices of Deposition of the United States Department of Justice and Bernard M. Hollander, Esq., Be Vacated and the Discovery not Had dated March 10, 1976 ("Gov. Reply Mem."), p. 2, n. 1.

(e) Conversations with Lynn, attorney for Turnbull and McCook, concerning production of documents;

(f) Requests by the United States for documents from McCook's files; and

(g) Communications by the United States with Turnbull concerning documents after trial in the prior suit.

In the two affidavits, the trial attorney did not state that he had set forth his total knowledge on the subject matter. Instead, these representations were made in two memoranda filed by the Justice Department in support of the motion for a protective order.[26]

The second affidavit showed changes in testimony by the trial attorney from the time of the first affidavit. For example:

(i) In the first affidavit, the trial attorney stated that the documents provided by Mr. Turnbull were numbered TU-001 - TU-100, and returned to Mr. Turnbull in November, 1969 (A-697); in the second affidavit, the trial attorney stated that a document later received from Winton, an attorney for Mr. Turnbull, in December, 1969, was subsequently included in TU-001 through TU-100, when those documents were produced for Standard (A-707-708).

(ii) In the first affidavit, the trial attorney stated that he had one telephone call from Turnbull prior to October, 1969 (A-696-697); in the second affidavit, the trial attorney stated that he had further discovered, since the preparation of the first affidavit, that he had a second telephone call with Turnbull which apparently took place on October 22, 1969 (A-704). The second affidavit does not show what documents or persons refreshed the trial attorney's recollection as to the second telephone call;

(iii) In the first affidavit, the trial attorney identified certain documents as notes of telephone communications with Turnbull (A-701); in the second affidavit, the trial attorney changed his statement and said that one of the documents consisted of notes of a meeting with Turnbull (A-705).

Finally, the affidavits show that the trial attorney's recollection could be refreshed. For example, he stated that upon reading the Turnbull deposition he recalled that the meeting between Turnbull and him in October, 1969, for collection of documents, lasted about one-half hour (A-704).

b. DEPOSITION TESTIMONY BY MR. TURNBULL IN TREBLE DAMAGE SUIT RE PRODUCTION OF DOCUMENTS IN UNITED STATES SUIT:

When the Department of Justice stated that the substance of Mr. Turnbull's six days and 1,200 pages of deposition testimony was that Turnbull did not remember what had happened in October, 1969, the Justice Department overlooked two facts:

First, the deposition testimony of Turnbull covered more than just the events of his meeting in October, 1969, with the Justice Department trial attorney, at which documents were delivered to the Justice Department; the deposition testimony dealt with the return of documents from the trial attorney, with later searches by Turnbull for documents in 1970-1971, with discussions with the Department of Justice trial attorney in 1970 and 1973, and with detailed facts concerning the collection and delivery of documents in the prior suit to the Department of Justice.

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[26] In the first memorandum, the Department stated that [the trial attorney] "is clearly unable to shed any further light on Mr. Turnbull's production of documents" (First Mem., p. 9); in the second memorandum, the Department stated that "once again * * * Mr. Hollander has revealed all that he knows" (Gov. Reply Mem., p. 9); yet in the second affidavit attached to the second memorandum, Mr. Hollander set forth, in response to questions by Standard, facts not previously disclosed.

Second, in stating that Turnbull does not remember what happened in October, 1969, the Department of Justice isolated some 32 lines out of 1,200 pages of deposition testimony, in which Turnbull testified that he did not remember whether the trial attorney, while at Turnbull's office in October, 1969, looked through the documents which Turnbull had provided to him, or whether the trial attorney excluded documents from the files set forth.

In some 70 pages of his deposition, Turnbull gave specific, detailed testimony concerning the meeting in October, 1969, with the Justice Department trial attorney, much of which was in conflict with the trial attorney's statements in his two affidavits. For example, Turnbull testified that he was contacted "out of the blue" by Mr. Hollander (A-556), that he collected eight or nine files for Mr. Hollander, and put them on his desk in a pile (A-557), and that the pile was six inches high (A-552); in addition, he testified that he provided loose documents to Mr. Hollander (A-561). As to the collection of documents by the trial attorney, Turnbull stated:

> "Q. Did Mr. Hollander look through the folders right in your office?
>
> "A. He glanced—yes, he glanced through them. Not—he didn't get down and study them, but he glanced through them and then put them in his briefcase.
>
> "Q. And took them with him?
>
> "A. And took them with him" (A-557-558).

Turnbull testified that the trial attorney stated that the files of Governor Lee were incomplete, and that the trial attorney wanted to take a look at Turnbull's complete file (A-555). Turnbull testified that the trial attorney asked to see all Turnbull's documents concerning petroleum products in American Samoa (A-556). Further, he testified:

> "When he took all of the material, he says, *'I am going to look through this file, and I am only going to take out what I want to take out of it.'* So he took it. Now, I get a package of stuff back to the office. So I stuff it in the file, and then my recollection is faintly that I got another one, but I was busy at the time, and I remember seeing something from the Justice Department. I stuffed that, too, as the balance of the papers" (A-566) (emphasis added).

Turnbull testified that he had provided documents concerning petroleum products in American Samoa to Lynn and to the law firm in San Diego, which had been employed by Lynn to investigate a potential treble damage suit. Turnbull testified that he did not deliver any documents to Lynn, or to the law firm in San Diego, that he did not deliver to the Justice Department trial attorney. He further testified that he did not show any documents to Winton, a lawyer consulted by him in November, 1969, which he did not deliver to Mr. Hollander. Yet, in the treble damage suit, documents were uncovered in the files of Lynn and the San Diego law firm which were not provided to Standard in the prior suit, and which in addition, Winton and his law clerk testified they reviewed in the prior suit. To quote the testimony by Mr. Turnbull:

> "Q. Did you supply to Mr. Jones [San Diego lawyer] any documents you did not provide to Mr. Hollander?
>
> "A. No, No.
>
> "Q. Did you provide to Mr. Lynn any documents you did not provide to Mr. Hollander?
>
> "A. No" (A-571).

And as to Winton:

> "Q. * * * Do you recall whether you delivered any documents to [a third lawyer, Medvane] at the meeting [between Medvane, Winton and Turnbull]?

> "A. I don't remember whether I did or not * * * *because my recollection is I had shown some documents to Winton.*
>
> * * * * * * *
>
> "Q. * * * In the time sequence of your visit with Mr. Winton and Mr. Medvane [November, 1969] did you take to them any documents that you did not give to Mr. Hollander?
>
> "A. No.
>
> "Q. Was anything that they saw also seen by Mr. Hollander?
>
> "A. Yes" (Tr., Turnbull Dep., November 24, 1975; A-567) (emphasis added).

Mr. Turnbull testified, in detail, as to some 52 documents not produced in the prior suit. He did not testify as to the remaining 26 documents not produced in the prior suit, because those documents were in the files of the law firm in San Diego and in the files of the Justice Department, and were not produced for Standard until after the Turnbull deposition. As to each document reviewed, Mr. Turnbull gave testimony as to whether it was in his files in October, 1969, and whether it was made available to the Department of Justice trial attorney. In many instances, Turnbull testified that the documents were in his files in October, 1969 (e.g., A-599-600, 602, 607-608, 612); he testified, without qualification, that certain of the new documents were made available to the Justice Department trial attorney (e.g., A-599-600, 601, 604, 608); that others, he believed, were made available to the trial attorney (e.g., A-602, 624); and that as to certain other new documents, he did not recall if he made them available (e.g., A-597, 605, 624).

Finally, Turnbull testified that he made searches of his files following the return of documents to him by the Justice Department in the prior suit (A-575, 588). He testified that he did not find any documents in the files different than the documents provided to the Department (A-575-584, 589-590); he said that he did not look through the documents that he had received back from the Department of Justice. To quote the testimony:

> "Q. And you didn't find any documents in those other files that were in addition to TU 1 to 100?
>
> "A. Nothing that went to Hollander did I look through. I looked through some other files to find what apparently would have been new things, new discovery that I would find in other files, and I didn't find anything.
>
> "Q. * * * [Y]ou didn't look through any of the documents that you got back from Mr. Hollander?
>
> "A. No.
>
> "Q. * * * Now, sir, is there any reason why you didn't look through the files you had gotten back from Mr. Hollander?
>
> "A. Because it would—because I believed at the time or would have believed at the time that all those documents were already a matter of record.
>
> "Q. Had already been given to Standard?
>
> "A. Had already been done * * *" (Tr., Turnbull Dep., November 24, 1975, pp. 236-237; A-584).

In short, the Turnbull deposition statements conflict in important respects with the ex-parte affidavits of the Justice Department.

3. Justice Department: Post-Trial Documents:

The Justice Department acknowledges that it received two photographs and 12 new documents from Turnbull after the trial but before the hearing on relief. These included a document contradicting the finding proposed by the Government and entered by the Court that McCook had been excluded from Samoa. The United States now takes the position that it did not disclose these documents to Standard because they were not relevant to the issues on relief (Gov. Reply Mem., p. 4-5, n. 4).

In addition, the Justice Department said that the 14 enclosures were "quite clearly" described in Turnbull's letter (A-436) to the Department of Justice which was forwarded to the Court and Standard, but were never requested by Standard (Gov. Reply Mem., pp. 4-5, n. 4; A-725).

In contrast to the position by the Department of Justice, the Court's order required it to produce all documents in its possession with respect to proposals by petroleum suppliers in American Samoa. And the letter from Turnbull which was sent to the Court and Standard did not show that the 12 enclosed documents concerned the period from 1963 to 1965; instead, the letter indicated that the documents referred to current business matters which the Department of Justice had suggested be kept confidential and not disclosed (A-436).

I. ARGUMENT

This motion requests the Court to recall its mandate and to enter an order granting leave to the District Court to consider a motion by defendant Standard to set aside the judgment of the District Court for fraud upon the Court, pursuant to Rule 60(b), Federal Rules of Civil Procedure. It is apparent from the documents produced in the treble damage suit that Standard was denied an opportunity to defend in the prior suit brought by the United States because of a withholding or suppression of documents, and that the procedures in the District Court for the Northern District of California were tainted. A litigant is entitled to a fair hearing which presupposes an opportunity to present all the facts available in support of his position; Standard

did not have this opportunity. The issues involved in this motion transcend the interests of the parties; they involve the integrity of the judicial process and its institutions. As stated by this Court in *Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, where fraud involving an attorney was perpetrated upon the Patent Office and upon the Court of Appeals:

> "* * * tampering with the administration of justice * * * involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society" (322 U.S. 238, 246).

1. A motion pursuant to Rule 60(b)(6) is an appropriate remedy for fraud upon the Court:

A motion filed pursuant to Rule 60(b)(6), like a bill of review in equity, is an appropriate remedy to set aside a judgment for fraud upon the Court (*Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 248; *Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1963) 320 F.2d 594, 608-609; see *Toscano v. C.I.R.* (9 Cir. 1971) 441 F.2d 930, 933-935; *Root Refining Co. v. Universal Oil Products Co.* (3 Cir. 1948) 169 F.2d 514, 521-523, certiorari denied (1949) 335 U.S. 912; *Haggar Company v. United States* (Ct. Cl. 1955) 128 F.Supp. 404, 407). Fraud upon the court is the something more, or extraordinary circumstance, that warrants relief under Rule 60(b). As stated by this Court in *Klapprott v. United States* (1949) 335 U.S. 601, with respect to the nature of relief under Rule 60(b)(6):

> "It is contended that the 'other reason' clause should be interpreted so as to deny relief except under circumstances sufficient to have authorized relief under

> the common law writs of *coram nobis* and *audita querela,* and that the facts shown here would not have justified relief under these common law proceedings. One thing wrong with this contention is that few courts ever have agreed as to what circumstances would justify relief under these old remedies. * * * In simple English, the language of the 'other reason' clause, for all reasons except the five particularly specified, vests power in courts adequate to enable them to vacate judgments whenever such action is appropriate to accomplish justice" (335 U.S. 601, 614-615).

Further, a motion pursuant to Rule 60(b)(6) is consistent with the public interest in the proper administration of justice (*Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1963) 320 F.2d 594, 608-609). Where a civil suit is brought by the United States under the antitrust laws, with severe civil penalties, the public interest is plain; it is: (1) requiring the United States to turn square corners in dealing with opposing litigants; (2) requiring the United States to conduct antitrust suits involving sweeping decrees with full candor and disclosure; and (3) careful scrutiny of challenged judgments, which have prospective effect under Section 5 of the Clayton Act, particularly where the conduct called into question involves interested participants such as McCook or his attorneys.

2. A motion to recall the mandate is not a mere ceremonial gesture; the motion must set forth evidence which, if true, warrants relief; this showing has been made in the present suit:

A motion to recall a mandate after an affirmation on appeal is not a mere ceremonial gesture. It must be supported by adequate evidence (*Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 248; *National Brake Co. v. Christensen* (1921) 254 U.S. 425, 430-433; *Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1963) 320 F.2d 594, 602, n. 11). The appellate court has the right to be fully informed of all that has taken place, not to determine the issues finally, but to decide whether a Rule 60(b) hearing should be held.

In the treble damage suit, in a gradually unfolding chronicle of wrongful conduct in the discovery proceedings in the prior suit, Standard has discovered that there was a failure by McCook and Turnbull, and their attorneys, to produce relevant documentary evidence. The total facts have not yet been gathered because the deposition of Mr. Turnbull was completed before Standard discovered the new documents in the files of the Department of Justice and of the law firm in San Diego. The facts to date show the following:

> (1) A failure by a material witness to produce documents in his possession, in response to a subpoena duces tecum—this witness, at the time he failed to produce such documents, contemplated filing, and has since filed, a treble damage suit against Standard, pleading the Government decree as *prima facie* evidence;
>
> (2) A failure by a second material witness, who was an agent or partner of the first witness, to produce documents in his possession, in response to repeated requests by Standard;
>
> (3) A failure by an attorney who was retained by the first witness in connection with a possible treble damage suit, and who represented the second witness incident thereto, to produce documents from both witnesses in his own files, in response to subpoena duces tecum, with representations by the attorney that there were no further documents in the files of the first or second witness;

(4) A failure by the Department of Justice to produce for Standard documents received from one of the witnesses post-trial, despite representations to Standard prior to trial that it knew of no additional documents, and despite knowledge that the witness, in making the same representation to Standard, had not been telling the truth; and

(5) A failure by the Justice Department, if one of the witnesses is telling the truth, to produce documents delivered to the Department of Justice prior to trial.

Whether taken singularly or together, these facts warrant relief.

a. A FAILURE TO PRODUCE DOCUMENTS IN RESPONSE TO SUBPOENA DUCES TECUM, NO LESS THAN A FAILURE BY A PROSECUTOR TO PRODUCE DOCUMENTS IN HIS POSSESSION OR CONTROL IN RESPONSE TO A REQUEST BY ONE OF THE PARTIES, IS A PERVERSION OF THE JUDICIAL PROCESS WHICH WARRANTS RELIEF UNDER RULE 60(b):

As stated in *Blackmer v. United States* (1932) 284 U.S. 421, dealing with the general duties of a citizen in response to a subpoena:

> "It is * * * beyond controversy that one of the duties which the citizen owes to his government is to support the administration of justice by attending its courts and giving his testimony * * *" (284 U.S. 421, 438).

In the present suit by the United States, there was a failure by two material witnesses, McCook and Turnbull, to produce documents in their possession, or in the possession of their attorneys. This failure was aggravated by three additional facts:

First, there was a failure to produce not just one or two documents, but a series of documents spread, in varying degrees, throughout the files of McCook, Turnbull, and two of the attorneys consulted by them;

Second, the documents were not lying undiscovered in the files or overlooked, but a number were taken from the files by Turnbull and forwarded to attorneys for their analysis in connection with a possible treble damage suit;

Third, certain of the documents were in the files of an attorney who represented to Standard that there were no further documents.

The testimony by McCook and Turnbull was material to the issues tried. The United States cited, and quoted, testimony by McCook in its post-trial brief (A-735); in its findings, the District Court referred specifically to McCook's testimony (A-774). But the testimony was misleading, and incomplete. In similar circumstances, where there was perjury committed by three non-party witnesses, the Court of Appeals ordered that the judgment be set aside on a motion pursuant to Rule 60(b); to quote the Court:

> "* * * [T]he district court concedes that the testimony of these persons at the trial was part of the evidence upon which the judgment under attack was based. We hold that where it appears that perjured testimony may have played some part in influencing the court to render a judgment, the perjury will not be *weighed*, on a motion to set aside the judgment. This seems self evident. * * * [I]t was clearly the duty of the district court to set aside the judgment, because poison had permeated the fountain of justice. Thus, in that event, this taint had affected the entire proceeding in the court below, although we find no indication that any counsel herein was a party to any wrongdoing" (*Peacock Records, Inc. v. Checker Records, Inc.* (7 Cir. 1966) 365 F.2d 145, 147, certiorari denied (1967) 385 U.S. 1003).

In short, because there was only a partial disclosure of the facts by two material witnesses, McCook and Turnbull, and a distortion of the facts in their testimony, the judgment should be set aside. This is particularly true where, as here, a witness who failed to make disclosure intended at the time to use, and since has sought to use, the decree in the suit by the United States to support a treble damage action.[27]

b. A FAILURE BY THE UNITED STATES TO PRODUCE DOCUMENTS DELIVERED TO IT BY TURNBULL, PRIOR TO TRIAL, WAS A DENIAL OF DUE PROCESS; THERE IS PRIMA FACIE EVIDENCE THAT TURNBULL DELIVERED DOCUMENTS TO THE UNITED STATES, WHICH WERE NOT DELIVERED IN TURN TO STANDARD:

The United States in a civil suit, no less than in a criminal action, has a duty to present evidence to the District Court which is not false or misleading. This duty is mandated by the fairness requirement of the due process clause, and is inherent in the general obligation of the Department of Justice to seek justice above victory. As stated by this Court in *Berger v. United States* (1935) 295 U.S. 78, 88:

> "The United States Attorney is a representative not of an ordinary party to a controversy, but of a sovereignty * * * whose interest * * * is not that it shall win a case, but that justice shall be done."

A suppression by the United States of material evidence, requested by defendant, violates due process and requires a new trial (*Brady v. Maryland* (1963) 373 U.S. 83, 86-88). In the present suit, the Department of Justice produced for Standard prior to trial certain documents which it had received from Turnbull, the witness. Despite subsequent requests by Standard, the United States informed Standard that it did not receive other documents from the Turnbull files.

In the treble damage suit, Mr. Turnbull has identified specific documents made available to the Department of Justice, prior to trial, not later produced by him or by the Justice Department for Standard. Further, Turnbull, testifying generally as to documents made available to private lawyers prior to trial, stated that he did not deliver to these lawyers any documents not delivered to the Department of Justice. In the files of two of these lawyers were documents not produced for Standard. The documents were exculpatory.

The Department of Justice has stated that it does not recall receiving the other documents; but if the testimony by Turnbull is true, the judgment must be set aside irrespective of the good faith or bad faith of the Justice Department. As stated by this Court:

> "A prosecution that withholds evidence on demand of an accused which, if made available, would tend to exculpate him, or reduce the penalty, helps shape a trial that bears heavily on the defendant. That casts the prosecutor in the role of an architect of a proceeding that does not comport with standards of justice, even though * * * his action is not 'the result of guile' * * *" (*Brady v. Maryland* (1963) 373 U.S. 83, 87-88).

The District Court should determine who is telling the truth. If the District Court determines that Turnbull, McCook, or Lynn produced documents for the Justice Department which were not in turn delivered to Standard, the judgment should be set aside. If the District Court determines that Turnbull deceived the Department of Justice, as well as Standard, this will be further evidence of fraud by Turnbull, which likewise warrants relief.

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[27] At a minimum, regardless of the disposition of these proceedings with respect to the United States, if the mandate is recalled the District Court should strike Finding 67 to the extent it relates to McCook (see ***District of Columbia v. Stackhouse*** (D.C. Cir. 1956) 239 F.2d 62, 65) and deny prospective effect of the judgment to McCook (see ***Precision Co. v. Automotive Co.*** (1945) 324 U.S. 806, 815-816).

c. THE FAILURE BY THE UNITED STATES TO PRODUCE FOR STANDARD NEW DOCUMENTS RECEIVED POST-TRIAL REQUIRES THE JUDGMENT TO BE SET ASIDE:

The United States, although not soliciting false evidence, has a duty not to permit false material evidence to go uncorrected in the record when it appears (*Napue v. Illinois* (1959) 360 U.S. 264, 269; *Giglio v. United States* (1972) 405 U.S. 150, 153). Less than a year after the judgment of the District Court, when Standard might have moved in this Court to recall the mandate and for leave to file a motion to set aside the judgment of the District Court pursuant to Rule 60(b)(2) for newly discovered evidence, or pursuant to Rule 60(b)(3) for fraud or misrepresentation, the United States received documents from Turnbull which had not been disclosed to Standard prior to trial, which showed that Turnbull had not been telling the truth when he represented, through Lynn, that there were no documents in addition to TU-001 to TU-100. One of the documents contradicted the testimony of McCook with respect to his exclusion from American Samoa upon which the Justice Department based its proposed finding of fact which, later, was adopted by the District Court. Instead of disclosing these documents to Standard or the District Court, the United States returned them to Mr. Turnbull, keeping undisclosed copies in its files.

If the failure by the United States to inform the Court and Standard of the existence of the new documents, while retaining a set of the documents for its own files, was not intentional, the failure to disclose one of those documents whose exculpatory value for Standard could not have escaped the attention of the United States was a negligent suppression which warrants setting aside the judgment of the District Court, either for denial of due process (*Brady v. Maryland* (1963) 373 U.S. 83), or in the exercise of this Court's supervisory jurisdiction (*United States v. Consolidated Laundries Corporation* (2 Cir. 1961) 291 F.2d 563).

In *Consolidated Laundries,* where the defendant discovered after trial 43 unnumbered documents in the Justice Department files which were material to the conduct of the defense, the Court of Appeals ordered that a new trial be granted; it pointed out that despite the contention by the Justice Department that some of the documents would have strengthened the prosecution, the documents would have been of obvious benefit to defense counsel in cross-examination of the principal witness. The Court stated:

> "It is, of course, impossible to know whether the result of the trial would have been different if defense counsel had had the [missing] documents. No one can tell what might have developed had the Government's principal witness been confronted with them during cross examination, or if certain of the documents had been available to refresh his recollection about facts which he did not remember and which, if elicited, might have been helpful to the defendants. As stated in Clancy v. United States, 365 U.S. 312, 316 * * *: 'Since the production of at least some of the statements withheld was a right of the defense, it is not for us to speculate whether they could have been utilized effectively' " (291 F.2d 563, 570).

Further, the assertion by the Justice Department that it was under no court order to produce these documents, and that Standard had not specifically requested them, is no excuse. During the trial in the prior suit, Standard had repeatedly requested such types of documents, and had obtained an order from Judge Conti after trial requiring the Department of Justice to deliver documents sent to it by third parties on the issue of relief, which extended to the enclosures submitted by Turnbull. The Justice Department improperly took it upon itself to determine what was relevant, giving the Court's order the narrowest effect (see e.g., *Lee v. United States* (9 Cir. 1968) 388 F.2d 737, 740; *United States v. DeMarco* (C.D.Cal. 1975) 407 F.Supp. 107, 112). The Justice Department had a duty to disclose the new evidence, not to weigh its impact:

> "The question is whether or not the document could have been used by the defense * * *. That is a question for the judge and jury. By suppressing this evidence, the [Federal prosecutor] attempted to become the trier of fact. That is not the prosecutor's function. His duty is to provide exculpatory evidence to the defense and then seek to rebut it before the trier of fact. It is not the prosecutor's function to structure a proceeding in such a way that exculpatory material is concealed from the defense, the court, and the jury" (*United States v. DeMarco* (C.D.Cal. 1975) 407 F.Supp. 107, 112).

3. The District Court should take evidence and enter findings concerning the failure to produce documents:

While the evidence shows plainly that McCook, Turnbull, and Lynn failed to produce documents in their files demanded by subpoena duces tecum and requests by Standard, the District Court should be permitted to take evidence concerning the production of documents by Mr. Turnbull for the Department of Justice. In *Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 249, n. 5, this Court noted that material questions of fact raised by charges of fraud could not be finally determined, if disputed, on ex-parte affidavits without examination and cross-examination of witnesses.[28]

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[28] In *Hazel-Atlas* this Court reserved decision on whether if the facts relating to fraud were in dispute and difficult of ascertainment, the appellate court should have held hearings and decided the case or should have sent the case to the District Court for decision (322 U.S. 238, 249-250, n.5). Subsequent appellate court rulings have usually followed the practice of sending the case to the District Court (e.g., *Wilson Research Corp. v. Piolite Plastics Corp.* (1 Cir. 1964) 336 F.2d 303, 306; *Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1963) 320 F.2d 594, 609).

CONCLUSION

For the foregoing reasons, the motion should be granted.

Dated: June 21, 1976.

Respectfully submitted,

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ADDENDUM

1. Discovery Proceedings: United States Suit: Pretrial:

We set forth below, in outline form, the discovery proceedings in the suit by the United States prior to trial:

	Date	Chronology of Events
a.	September 30, 1969	Complaint filed;
b.	October 29, 1969	Hollander meets Turnbull in Los Angeles; collects files and/or loose documents; notes that McCook has file with proposal for Governor Lee re petroleum facility in Samoa (A-271, 273-275, 431);
c.	November 3, 1969	Hollander returns three files to Turnbull; returns originals of documents numbered TU-001-TU-100[29]; requests Turnbull to forward copy of proposal for bulk petroleum plant in Samoa retained by McCook (A-274-275, 431);
d.	October, 1969- November, 1969	Turnbull delivers *one or two grocery boxes* of documents — *more than the 100 pages in TU-001 - TU-100* — re petroleum in American Samoa to Howard L. Winton, Esq., Los Angeles, for evaluation of potential treble damage suit against Standard; documents reviewed by Winton; also reviewed by Jerrold Gross, law clerk for Winton (A-654-655, 667-669);
e.	November 17, 1969	Hollander interviews Turnbull re Turnbull's, Standard's Samoan activities (A-757);

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[29] TU-001-TU-100 are the documents from Turnbull's files delivered by the United States to Standard during pre-trial discovery; these documents are reproduced in the appendix to this motion (A-1-100).

Date	Chronology of Events
f. December 11, 1969	Hollander receives document from Winton, from files of Turnbull (A-278);[30]
g. April 1, 1970	Hollander requested by Mussman, counsel for Standard, to provide documents in Justice Department possession concerning petroleum supply, distribution, sale in American Samoa (A-267-270, 282);
h. April 13, 1970	Hollander sends Mussman TU-001 - TU-100 (A-283);
i. May 20, 1970	Counsel for Standard interview Turnbull, Los Angeles; Turnbull to file multi-million dollar suit against Standard, based upon outcome of Government suit; Turnbull to be represented by lawyer; interview terminated;
j. August 15, 1970	Turnbull mails documents to Sullivan, Marinos, Augustine & Delafield, law firm in San Diego employed by Lynn to evaluate possible treble damage claim for Turnbull-McCook; *envelope contains 64 pages of documents, including —apart from 23 pages of documents in set TU-001 - TU-100 —41 pages of documents not in set TU-001 - TU-100* (A-286, 287, 641);
k. August 19, 1970	Law firm in San Diego mails Lynn photocopy set of the 64 pages of Turnbull documents;

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[30] The Justice Department has identified this document from Winton as a two-page letter included in set TU-001 - TU-100, numbered TU-079-080, but is unable to state with certainty that nothing else was received from Winton (A-754).

Date	Chronology of Events
l. October 1, 1970	Deposition of Turnbull, Los Angeles; Turnbull represented by Lynn; Lynn produces 13 pages of documents from photocopy set (A-101-113, 303-306)—not included in TU-001 - TU-100 — does not produce other 28 pages of documents in photocopy set which were not in TU-001 - TU-100; Mussman requests additional search of Turnbull files; Hollander objects, unless Mussman specifies missing documents; Lynn agrees to make search (A-319-321);
m. November 9, 1970	No word from Lynn on search; Mussman requests Lynn report on status of search; requests all petroleum documents, including specific documents referred to by date at Turnbull deposition (A-322-324);
n. December 14, 1970	Lynn sends copy Turnbull deposition to law firm in San Diego; refers to request for documents by Mussman; states that prior to forwarding documents to Mussman, will ask approval of law firm (A-325);
o. December 31, 1970	Notice of Deposition of Raymond C. Turnbull by Standard; Turnbull to be subpoenaed to bring all writings prepared between July 1, 1956 - December 31, 1971, that refer in any way to storage, purchase, sale, distribution or use of petroleum products in American Samoa,

Date	Chronology of Events
	except documents TU-001 - TU-100 previously produced (A-326-327);
p. January 13, 1971	Lynn informs Mussman no further documents in Turnbull files; Turnbull deposition cancelled; letter to Mussman from Lynn (copies to Hollander, Turnbull):

> *"You have this writer's assurance that there is nothing in the files of Mr. Raymond C. Turnbull respecting those items referred to in your deposition heretofore noticed for January 22, 1971. Those documents previously marked TU-001 through TU-100 constitute the totality of the Turnbull file respecting the above matter"* (A-328) (emphasis added);

Date	Chronology of Events
q. January 18, 1971	Hollander-Lynn telephone call re Turnbull deposition; Lynn states no other documents (A-329);
r. January 26, 1971	San Diego law firm sends Lynn copies of letters dated August 13, 1965, and August 25, 1965, from Turnbull files, included in set TU-001 - TU-100; statement by law firm that upon reading letters, it became evident that something occurred between McCook and Lee during week of August 25, 1965; needed to be explored (A-330);
s. February 19, 1971	Transmittal by Lynn to Turnbull of January 26, 1971, letter from San Diego law firm, with attachments; *undated Turnbull handwritten note on letter dated February 19, 1971* (A-334), *refers to letter dated October 5, 1965, McCook-Lee, and subsequent letter, Lee-McCook; letters referred to not in set TU-001 - TU-100* (A-189-190, 334);

Date	Chronology of Events
t. March 3, 1971	Standard locates McCook, Palm Springs; McCook represented by Lynn; has files related to petroleum supply American Samoa; Lynn to make files available March 9, 1971;
u. March 8, 1971	Standard informed by Lynn that all McCook documents not available for inspection on March 9; Standard to notice McCook's deposition (A-335);
v. March 9, 1971	Notice of Deposition of Richard B. Lynn, 9:00 a.m., March 22, 1971, Los Angeles, California; William R. McCook, 10:00 a.m., March 22, 1971, Los Angeles; subpoenas duces tecum issued for McCook, Lynn (A-336-343);
w. March 15, 1971	Standard changes dates of depositions to Tuesday, March 23rd, from Monday, March 22, 1971, because of inability to serve McCook with subpoena duces tecum (A-345);
x. March 15, 1971	Lynn suggests breakfast meeting to McCook, Turnbull, prior to depositions for purpose of review; suggests meeting by McCook, Lynn, with San Diego attorney and possibly Hollander on March 23, 1971, following depositions (A-344);

	Date 1971	Chronology of Events
y.	March 18, 1965	Amended notice of deposition for Lynn, McCook; subpoenas duces tecum issued, served on Lynn, McCook (A-357);[31] 346
z.	March 23, 1971	9:00 a.m., Lynn deposed (A-360-381); no documents produced; employed 6-7 months to represent McCook re possible litigation against Standard with respect to petroleum in American Samoa; documents delivered to Lynn by McCook, Turnbull; Lynn repeats statement documents previously marked TU-001 - TU-100 constitute totality of file; same statement made for each paragraph of subpoena; testimony re documents in files of law firm in San Diego:

"Q. Do you recall telling [counsel for Standard] last week that certain documents were in the possession of Mr. Sullivan and Mr. Jones in San Diego and

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[31] Attachment "A" to each subpoena duces tecum described the following documents required to be produced:

"(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

"(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in America Samoa * * *;

"(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

* * * * *

(e) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof" (A-352-357);

you did not have them in your possession, documents that have been delivered to you by Mr. McCook?

"A. I think what I said * * * was that I was not completely comfortable at that time with the unequivocal statement * * * that everything was in this office or had been previously made a part of the earlier deposition. I'm saying to you now I am comfortable in that feeling. In other words, I've had a chance to review the things and think that I can make the same statement with reference to each of these subparagraphs as I did in my letter to your office on January 13th.

"Q. In other words, *is what you are telling me is that the documents that have previously been produced and numbered TU-001, et cetera, are all the documents in your possession or control or under the possession or control of Sullivan, Augustine, in San Diego that relate to the various paragraphs of the subpoena?*

"A. *Yes, I can make that representation*" (A-368-369) (emphasis added);

Testimony re Department of Justice:

"Q. Have you made copies of any of these documents and delivered those copies to the Department of Justice?

"A. No. I think—excuse me.

"Mr. Hollander, I don't think there is any secret about the file.

"Mr. Hollander: As you said on the record and as Mr. Turnbull said on the record, the documents made were numbered by the government TU-100" (A-369);

	Date	Chronology of Events
aa.	March 23, 1971	10:15 a.m., McCook deposed (A-382 - 392); no documents produced; file with correspondence concerning petroleum venture delivered to Lynn 7 months earlier; Lynn retained to represent McCook re pos-

Date	Chronology of Events
	sible suit against Standard; McCook retained no documents that fit subpoena description; might be few miscellaneous documents filed elsewhere; not looked in files to see if there were documents (A-382-392); testimony, statement re other files:

"Q. Where are those files?

"A. It would be miscellaneous correspondence files. They would be in my office.

"Mr. Lynn: *I think it is fair to state that I made more than a cursory examination of Mr. McCook's files recently, that is, within the last 10 days, and I could find nothing in addition to that which had already been delivered here.*

"[Counsel for Standard]: *You are referring to the files at his office?*

"Mr. Lynn: *I am referring to the single four-drawer file which is in his office and which contains myriad of subfiles and I went through each one individually*" (A-388) (emphasis added);

Date	Chronology of Events
bb. March 23, 1971	Meeting Hollander, McCook, Lynn; transmittal by Lynn to San Diego law firm of document entitled: "Content," TU-081 - TU-097 (A-393).
cc. March 25, 1971	Meeting by Hollander with lawyer from San Diego firm (A-426).
dd. March 26, 1971	Acknowledgment to Lynn by San Diego law firm re receipt of requested documents from Lynn (A-394);

Date	Chronology of Events
ee. March 29, 1971	*J. T. Shaw deposed*, New York City; Thailand petroleum refiner; subpoena duces tecum; *copies of 1965 letters, Shaw to Turnbull, McCook, produced;* these documents not included in set TU-001 - TU-100 (A-395-396);
ff. April 3, 1971	*Lynn informed by Standard new Turnbull, McCook documents produced at Shaw deposition;* requested to make further search of Lynn, Turnbull, McCook files to determine if any further documents responsive to prior subpoenas (A-395-396);
gg. April 12, 1971	Inquiry to Lynn by Standard re search; to proceed by deposition, subpoena if no reply (A-397);
hh. April 15, 1971	Turnbull, Lynn depositions noticed for Monday, April 19, 1971, pursuant to subpoena duces tecum; Hollander informed by Lynn that Standard to settle for letter from Lynn re further documents (A-398-405);
ii. April 16, 1971	Hollander notified by Standard re statement by Lynn:

> "Lynn advises after further conference with Messrs. McCook and Turnbull they have no further documents responsive to our subpoenas. *Lynn * * * advises that Turnbull turned over his entire file to you from which you extracted documents numbered TU-001 - TU-100.* Do you have missing documents in your possession? Please advise at once" (A-406) (emphasis added).

	Date	Chronology of Events
jj.	April 16, 1971	Hollander notified depositions of Lynn and Turnbull cancelled; notice states: assume you will provide other missing documents (A-407);
kk.	April 19, 1971	Telephone message Hollander to Mussman; oral report Department of Justice provided Standard with all Turnbull documents received (TU-001 - TU-100) (A-408);
ll.	April 19, 1971	Letter outline to Hollander by Standard re events leading to depositions noticed for Lynn, Turnbull; statement re documents produced by Department of Justice:

> "Our telegraphic request was to find out if there were to your knowledge any documents produced from the Turnbull-McCook files for your inspection which you did not copy and produce for us because you believed that they were irrelevant or immaterial to the issues in the case. * * * There was no intent to suggest that the Government might be withholding documents; the inquiry was designed to find out if you would stipulate to a production of documents (if any) which you saw or received from Turnbull-McCook and which you did not include in the set numbered 'TU-001 - TU-100' " (A-412).

Next to last paragraph of letter: inquiry whether Hollander received, reviewed, documents other than TU-001 - TU-100:

> "From our telephone conversation this morning, I understand that you did not receive or review any documents from the files of Mr. Turnbull or Mr. McCook which are not included in the set of documents which you have marked as 'TU-001 - TU-100.' Your confirmation of this fact is certainly all that we need to cover the one unexplored avenue suggested by Mr. Lynn" (A-413).

	Date	Chronology of Events
mm.	April 23, 1971	Telegraphic notice to Mussman from Lynn; McCook, Turnbull files searched; no further documents; telegram states:

> "REF MARKETING PETROLEUM AMERICAN SAMOA. PLEASE BE ADVISED MESSRS. TURNBULL AND McCOOK FILES EXAMINED WEEK ENDING APRIL 17, 1971. YOU HAVE MY ASSURANCE THAT THERE ARE NO FURTHER DOCUMENTS. THIS ASSURANCE IS UNEQUIVOCAL AND IS IN NO MANNER DEPENDENT UPON MY INDEPENDENT JUDGEMENT RESPECTING RELEVANCE" (A-414).

	Date	Chronology of Events
nn.	April 23, 1971	Transmittal by Lynn to Hollander of copy of April 23, 1971, telegram to Mussman (A-415).[32]
oo.	April 23, 1971	Partial response by Hollander to April 19, 1971, Mussman letter; no response to next to last paragraph:

> "This is in response to one aspect of the matters discussed in your letter of April 19, 1971; namely your suggestion that further depositions with Messrs. Lynn and Turnbull might still be held with our concurrence even though the April 19 cutoff date for discovery has passed. * * * However, *since it is our understanding that Mr. Lynn has again searched the relevant files and found no additional responsive documents, there seems to us to be no reason for further depositions of*

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[32] In the treble damage suit, Lynn testified that he had telephone discussions with Mr. Hollander in the period April 15, 1971-April 23, 1971, concerning the search for documents and the telegram dated April 23, 1971, sent to Mussman (Tr., Lynn Dep., October 14, 1976, p. 122; A. 545).

either Messrs. Lynn or Turnbull. Unless there is some justification for taking yet a third deposition on the same subject matter, we hope that by now you have decided not to further interrogate Messrs. Lynn and/or Turnbull" (A-417-418) (emphasis added);

	Date	Chronology of Events
pp.	April 26, 1971	Transmittal Mussman to Hollander of contents of April 23, 1971 telegram; request to Hollander to confirm that he had seen no additional documents:

"Upon your confirmation of the understanding which I described in the penultimate paragraph of my letter to you of April 19, 1971, I will be content to rely on the record without any further testimony from Messrs. Lynn, Turnbull, and/or McCook. May I hear from you promptly" (A-419);

	Date	Chronology of Events
qq.	May 3, 1971	Hollander response to Mussman letter April 26; failure by Hollander to confirm no receipt or review, on his part, of documents from Turnbull-McCook files not included in TU-001 - TU-100:

"We have no reason to question Mr. Lynn's veracity and would have assumed that the repeated assurances to you, both on the record and off, would by now have put an end to your anxiety. In any event, there does not now appear to us to be any sound basis for pursuing the matter further" (A-420);

	Date	Chronology of Events
rr.	May 5, 1971	Request to Hollander by Mussman for confirmation that Hollander had not received, reviewed Turnbull-McCook documents other than TU-001 to TU-100:

"I * * * have your letter of May 3, 1971. You still have not confirmed the understanding which I expressed in the penultimate paragraph of my letter to you of April 19, 1971, and which I again requested in my letter of April 26, 1971" (A-421);

	Date	Chronology of Events
ss.	May 13, 1971	Representation to Mussman by Hollander re documents:

"This is in response to your letter of May 5, 1971. As we have repeatedly stated to you, we recall no documents provided to the Government by Mr. Turnbull which were not marked with TU identification, returned to Mr. Turnbull and provided for your use" (A-422);

	Date	Chronology of Events
tt.	May 17, 1971	Transmittal Hollander to Lynn of May 13, 1971, Hollander letter to Mussman (A-423);
uu.	May 18, 1971	Response by Mussman to Hollander letter:

"I appreciate your written confirmation that the Government saw no Turnbull documents other than those which have been marked with a 'TU' identification. As you know, Mr. Turnbull has said that he is contemplating an action against Standard (apparently based upon the allegations of the Government complaint) and, for this reason, the rather incongruous absence from his files of documents which we located elsewhere gave me concern" (A-425);

	Date	Chronology of Events
vv.	July 30, 1971	Telephone call Lynn-Hollander; unclear whether documents discussed (SDX-535; Tr. Lynn Dep., October 14, 1975, p. 136);

Date	Chronology of Events
ww. February 16, 1972	Lynn transmits to Turnbull all documents in Lynn's office (A-427);[33]
xx. March 17, 1972	Notice Lynn to San Diego law firm: "totality of the file documentation previously in my office" now in Turnbull possession (A-428-429);

2. Discovery Proceedings: United States Suit: Post Trial:

We set forth below, in outline form, the discovery proceedings in the suit by the United States following trial:[34]

Date	Chronology of Events
a. July 20, 1973	Return to Turnbull by Hollander of set of documents numbered TU-001 to TU-100; copies of documents, originals of which were provided to the Department of Justice on October 29, 1969, returned to Turnbull November 3, 1969 (A-431);
b. August 16, 1973	Request Turnbull to Hollander for San Francisco office, Antitrust Division, Department of Justice, to make Government files available to attorney for Turnbull (A-432);
c. August 23, 1973	Acknowledgment Hollander to Turnbull re request for files; instructions to San Francisco office, Antitrust Division, to make available the pleadings of public record (A-433);
d. August 27, 1973	Communication Department of Justice, San Francisco office, with Turnbull attorney; not clear whether documents discussed (A-433);
e. September 19, 1973	Request to Turnbull by Hollander to provide comments, suggestions, re plan for sharing petroleum storage facilities in Samoa proposed by Standard for hearing on relief (A-434);
f. October 4, 1973	Letter to Hollander from Turnbull transmitting comments on plan; 14 documents enclosed: 2 photographs, 12 letters or memoranda, prepared in time period 1963-1965, not produced prior to trial; one letter, enclosure 11, dated November 24, 1965, stated:

"My associates wish to create a new bulk petroleum facility in Samoa, complete with tankage of six million gallons, docking space for tankers and refueling facilities. With no available deep water frontage in Pago Pago harbor, it appears obvious that development of Tafuna Bay is warranted."

* * * * *

"Subject to the Governor's approval, my associates are ready to construct a $600,000. terminal" (A-454).[35]

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[33] Lynn retained originals or copies of 21 Turnbull documents (28 pages) which included 7 documents (8 pages) not included in TU-001 - TU-100 (see p.68, infra).

[34] As previously noted, the United States suit went to trial in June 1972; the judgment was filed December 12, 1972, and affirmed June 4, 1973.

[35] In addition to enclosure 11, two other documents referred expressly to petroleum storage in Samoa: enclosure 3, a two-page letter dated November 21, 1963, to Dillingham Corporation, referred to negotiations by Turnbull with Unoco to build a bulk plant for petroleum products near Pago Pago harbor (A-440-441); enclosure 7, a three-page letter dated December 10, 1963, referred to a petro-

	Date	Chronology of Events
g.	October 10, 1973	Notification to Judge Conti by Roger Nichols, Esq.: Kindel & Anderson retained by McCook and Turnbull in connection with proposal to enter American Samoa, and related matters;[36]
h.	October 18, 1973	October 4, 1973, Turnbull letter acknowledged by Hollander; 14 enclosures dealing with alternate storage location, Nu'uli Lagoon, returned to Turnbull by Hollander; duplicate set of 14 enclosures retained in Justice Department files; transmittal states:

"*I am returning herewith the 14 enclosures which I assume you will wish to keep as part of your files. They are not required by the Government at the coming relief hearing in American Samoa*" (A-458) (emphasis added).[37]

	Date	Chronology of Events
i.	October 23, 1973	Hearing American Samoa re plan to provide storage facilities on a shared-cost basis; order to provide documents from other suppliers to Standard:

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leum storage facility to be constructed by Union in Samoa, to a possible refinery in Samoa, and to the benefits from a refinery (A-446-448). The remaining nine documents dealt with plans to dredge a site for petroleum storage at a lagoon, near the airport in Samoa (A-437-439, 442-445, 449-453, 455-457).

[36] The letter dated October 10, 1973, to Judge Conti, stated: "You may recall that Mr. McCook and Mr. Turnbull had a proposal pending in late 1965 to provide petroleum products for American Samoa customers."

[37] With one exception, a letter dated December 10, 1963 (A-135-137, 446-448), these documents were not produced by Turnbull in the treble damage suit.

"Mr. Mussman: May I just suggest if there is correspondence with the government from companies who say they consider the program that we have proposed to be workable * * * I would think that would be of relevance. * * *

"Mr. Hollander: I don't want to mislead you. There is no great bulk of correspondence. Mostly the companies said—

"Judge Conti: Why don't you do this: *If there are any letters along that nature, send copies to Mr. Mussman.* If you feel they are of such a nature you don't feel they should be sent to Standard, send them to the Court and I will read them in camera and determine at that point.

"Mr. Hollander: I should ask the companies' permission, or ask them to write up something I could give to Mr. Mussman.

"Judge Conti: If they write a letter to you in confidence because of certain business secrets they might have, or certain procedures, then just let me read it in camera and decide" (A-459-462) (emphasis added);

	Date	Chronology of Events
j.	November 7, 1973	Notification Nichols to Hollander on behalf of Turnbull-McCook; no objection in forwarding letter of October 4, 1973, to Judge Conti for review, or to counsel for Standard (A-463);
k.	November 28, 1973	Transmittal to Judge Conti by Department of Justice of October 4, 1973, letter from Turnbull, *without enclosures* (A-464-470);
l.	November 28, 1973	Transmittal to Mussman by Department of Justice of October 4, 1973, letter from Turnbull, *without enclosures* (A-464-470).

3. Production of Documents; Treble Damage Suit:

We set forth below, briefly, the facts relating to the production of documents in the treble damage suit:

a. FIRST REQUEST FOR PRODUCTION OF DOCUMENTS: JUNE 23, 1975:

On June 23, 1975, in response by plaintiff, William R. McCook, to the first request by defendant Standard for production of documents, McCook produced approximately 270 pages of relevant documents.[38] Of these, 63 pages were documents which had not been produced by Turnbull, McCook or Lynn in the prior United States suit, including 36 pages of entirely new documents; 27 pages were versions of documents produced in the prior suit, but with different notations thereon, making them different documents.[39]

Altogether, there were 39 new documents—63 pages—as compared to 62 documents—100 pages—in the set TU-001 - TU-100.

b. DEPOSITION OF WILLIAM R. McCOOK: SEPTEMBER 23-24, 1975: SECOND REQUEST FOR PRODUCTION OF DOCUMENTS:

For the deposition of William R. McCook on September 23-24, 1975, on the subject of production of documents,

---

[38] We exclude documents produced by McCook which consisted of a news bulletin concerning the filing of the complaint against Standard in 1969 in the prior suit, and data concerning Western Samoa and Standard assembled by a research institute for someone else in 1974, after the complaint in the treble damage suit was filed.

[39] The differentiating character of the notations was recognized by Lynn:

> "Q. * * * do you recall throwing away at any time a copy or a duplicate of a document *which had handwritten or other notations* on the documents *which were different from the document that you kept in your file:*
>
> "A. No, I think if I ever threw a paper away, you know, *we being attorneys, would be astute enough to examine either duplicate originals or Xeroxes or tissues, and if there are, in fact, markings or notations on one that do not appear on the other,* * * * not to throw *something away that truly is not a copy* (Tr., Lynn Dep., October 14, 1975, pp. 23-24) (emphasis added).

Standard served a second request for production of documents upon McCook, which required him to bring to the deposition the documents produced on June 23, 1975. The second request for production was identical to the first.[40] Except for a few financial statements, no further documents were produced.

McCook testified that he had produced, in the set of documents numbered at the deposition as SDX 92-429, all documents in his possession or control responsive to the second request for production (A-494-495). McCook's attorney[41] stated that he had obtained documents from Turnbull, because Turnbull was an "agent" of the plaintiff, which were included in set SDX 92-429 (A-495). The attorney further stated that Lynn had previously delivered documents to his firm (A-495-496).

At the deposition, the attorney expressed a reservation about some documents that might have gone to the Justice Department, and not returned; he stated:

> "I think the only possible reason for hesitancy [for a representation concerning the completeness of the production of all documents in the possession of partners, associates, agents, attorneys, representatives of

---

[40] The second request, like the first request, called for all documents which related, *inter alia*, to:

> "a. The supply, sale, or distribution of petroleum products in American Samoa;
>
> "b. The financial ability of plaintiff to enter into the business of supplying, selling, or distributing petroleum products in American Samoa;
>
> "c. The storage of petroleum products in American Samoa; and
>
> "d. The manufacture of petroleum products for supply, sale, or distribution in American Samoa."

[41] While McCook or Turnbull consulted four different lawyers or law firms prior to trial in the earlier suit concerning a claim against Standard, they did not retain any of these lawyers for the treble damage suit, retaining instead new attorneys contacted after trial.

McCook] might arise from the fact that * * * *maybe some documents went to the Justice Department, and maybe Mr. Turnbull didn't get those back* * * * but if there are documents which exist that relate to the subject matter of this case or deposition, we certainly don't know about them" (A-495) (emphasis added).

c. DEPOSITION OF RICHARD B. LYNN: SEPTEMBER 25, 1975:

On September 25, 1975, defendant Standard took the deposition of Richard B. Lynn, Esq., pursuant to subpoena duces tecum; this deposition followed the second day of the deposition of Mr. McCook.

In response to the subpoena duces tecum, Lynn produced 7 documents which had not been produced for Standard by Turnbull, McCook, or Lynn in the prior suit. These included 6 new documents, not disclosed before to Standard (A-148-149, 150, 151, 159, 225, 226), and a copy of a letter produced by a third party in the prior suit (A-256).

d. DEPOSITION OF RAYMOND C. TURNBULL: NOVEMBER 24, 1975-DECEMBER 2, 1975:

On November 24, 1975-December 2, 1975, Standard took the deposition of Raymond C. Turnbull pursuant to subpoena duces tecum. Turnbull produced 7 relevant new documents not disclosed to Standard in the prior suit (A-118, 119, 120-121, 124, 135-137, 140, 227); in addition, he produced one other document which was a copy of a letter produced by a third party in the prior suit (A-253).

On the last day of the deposition, December 2, 1975, Mr. Turnbull produced 10 file folders maintained in his office in October, 1969, at the time of the visit by Mr. Hollander (A-630-632). Of these file folders, 6 indicated that they contained correspondence relating to petroleum supply in American Samoa: *SDX 1643,* "Pago-Plant Dock Prints Walker-Moody Co." (A-237); *SDX 1644,* "Mobil Petroleum Corporation Correspondence" (A-238); *SDX 1645,* "Unoco

Correspondence and Survey" (A-239); *SDX 1647,* "Petroleum-Confidential/Bank of America-P.C.P.C." (A-241); *SDX 1646,* "Summit Industrial Corporation Correspondence" (A-240); and *SDX 1648,* "Correspondence Gov. Lee Year 1965" (A-242).

By contrast, in October, 1969, the Department of Justice noted receipt of just three files from Mr. Turnbull:

> "1. File of correspondence entitled 'Union Bulk Plant—Samoa';
>
> "2. File of correspondence entitled 'Summit Industrial Corp.—Correspondence'; and
>
> "3. File of correspondence entitled 'Correspondence Gov. Lee 1962-1965' " (A-273).[42]

e. DEPOSITIONS OF RAYMOND C. TURNBULL, JANUARY 28, 1976; WILLIAM R. McCOOK, FEBRUARY 11, 1976:

On January 28, 1976, Standard completed the deposition of Turnbull pursuant to subpoena duces tecum, with respect to production of documents; he testified that he had no further documents (A-638).

On February 11, 1976, Standard completed the deposition of McCook, in connection with the second request for production of documents; he produced no further documents.

f. AFFIDAVIT OF BERNARD M. HOLLANDER: EXHIBITS: FEBRUARY 19, 1976:

On February 19, 1976, in opposition to notices of deposition served by Standard, the trial attorney for the Department of Justice in the prior suit, Mr. Hollander, filed an affidavit with the District Court, Central District, which stated that the only Turnbull documents the trial attorney could recall receiving prior to termination of the trial in the earlier suit were those designated TU-001 – TU-100 (A-696, 700); attached to the affidavit was correspondence with Turnbull, which included two photographs of a proposed petroleum storage area, and 12 letters or memoranda prepared during the period 1963 through 1965 concerning petroleum facilities or preparation of a site for petroleum facilities in American Samoa, which had been sent by Turnbull to the trial attorney following the affirmance of the judgment below by this Court (A-436-457). None of these documents had been produced in the prior suit; with one exception (A-135-137), the documents had not been theretofore produced in the treble damage suit.

---

[42] At his deposition, Turnbull testified that he took eight or nine files from his cabinet and delivered them to the Justice Department trial attorney in October, 1969, which the attorney took (A-556-557), and that he did not remember receiving the folders back (A-561), but later changed his testimony and said that he did not know if he delivered file folders to the trial attorney, but gave him loose documents (A-634).

g. DEPOSITION OF SULLIVAN, JONES & ARCHER; LYLE L. JONES; JAMES O. SULLIVAN, MARCH 30-31, 1976:

On March 30-31, 1976, Standard deposed a law firm in San Diego entitled "Sullivan, Jones & Archer" and two of its partners, Jones and Sullivan. The law firm was a successor to Sullivan, Marinos, Augustine & Delafield, which was retained in August, 1970, by Lynn, to investigate a possible treble damage claim by McCook and Turnbull against Standard, in connection with the pending suit by the United States (A-363, 649).

In response to subpoena duces tecum, the law firm produced 24 documents delivered to it by Turnbull and Lynn before trial in the prior suit, which had not been produced for Standard by Turnbull or Lynn in that suit (A-122-123, 124, 125, 141, 152, 153, 154, 155, 158, 160, 161, 162, 170-171, 172-173, 177, 182, 183, 186-188, 200-220, 228, 229-230, 256, 261, 262-263). Included were originals or copies of 15 new documents not theretofore produced in the treble damage suit (A-122-123, 125, 141, 152, 154, 155, 160, 161, 162, 172-173, 177, 182, 183, 186-188, 229-230).

h. SUMMARY: TOTAL NEW DOCUMENTS PRODUCED IN TREBLE DAMAGE SUIT:

In total, 78 new documents—not including duplicates—were produced for Standard in the treble damage suit, including 71 completely new documents, and 7 documents with differentiating notations thereon.

* * * * * * * *

Supreme Court, U. S.
FILED
JUN 22 1976
MICHAEL RODAK, JR., CLERK

APPENDIX

Volume I

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1251

STANDARD OIL COMPANY OF CALIFORNIA,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

On Motion to Recall Mandate and for Leave for District Court to Consider Motion to Set Aside Judgment for Fraud Upon the Court, Pursuant to Rule 60(b), Federal Rules of Civil Procedure

SORG PRINTING COMPANY OF CALIFORNIA, 346 FIRST STREET, SAN FRANCISCO 94105

Supreme Court of the United States

October Term, 1972

No. 72-1251

Standard Oil Company of California,
Appellant,

vs.

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On Motion to Recall Mandate and for Leave for District Court to Consider Motion to Set Aside Judgment for Fraud Upon the Court, Pursuant to Rule 60(b), Federal Rules of Civil Procedure

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Rec'd 3/5/63

Unoco Limited
(Incorporated in Liechtenstein)
THE OVERSEAS MARKETING SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

4089 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS "PETROLEUM HONGKONG"

March 1, 1963.

Mr. Reese H. Taylor, Jr.
Attorney at Law,
8530 Wilshire Boulevard
Suite 309,
Beverly Hills, California,
U. S. A.

Dear Mr. Taylor,

Pago, Pago, American Samoa

Mr Sanders referred your letter dated January 31, 1963 regarding detailed plans and proposals for increased activity in Pago, Pago, American Samoa, to Mr. F.K. Cadwell.

Mr. Cadwell has been on a rather extensive business trip throughout the Far East and London and because of this your letter as well as Mr. Sanders' letter, arrived after his departure.

I am very confident that Mr. Cadwell is going to be extremely appreciative of the opportunity to work with you and Mr. Turnbull on the possibility of constructing bulk petroleum facilities in Samoa. He has shown a keen interest and shares your optimism that there will be a tremendous economic growth in this area. We made a serious attempt two years ago to construct similar facilities in Tahiti and although our proposal was the most favourable to the Government we could not seem to secure the final approval from the French Government in Paris.

Your interest on our behalf in offering to assist us with the Government of American Samoa in negotiating a long-term land lease as well as putting us in contact with competent local operators is most appreciated.

/...2

Tu 201

Mr. Cadwell will return to Hongkong on March 15th, however I am sending him a carbon copy of this letter which we hope will reach him in Teheran, Iran. We would appreciate it if you could advise us of your current plans as to your return visit to Pago, Pago. You indicated in your letter that it would be in the early part of March and we are wondering if there is any change in your schedule. If Mr. Cadwell feels after reviewing the preliminary economic study we are giving him that a representative should meet you in Pago, Pago, it would of course be much more convenient to meet you the latter part of March or the 1st of April. Please let us hear from you.

Yours very truly,

JAMES H. MCGEE
Sales Manager

JHM:pcl

c.c. Mr. F.K. Cadwell

Unoco Limited
(Incorporated in Liechtenstein)

THE OVERSEAS MARKETING SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Sales Manager
J. H. McGEE

4089 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS "PETROLEUM HONGKONG"

March 11, 1963

Mr. Reese H. Taylor, Jr.
Attorney at Law
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Taylor,

Mr. Cadwell received a carbon copy of my letter to you dated March 1st, 1963 which we had forwarded to him in Europe. However, he did not receive a carbon copy of your letter which was forwarded with the economics study.

I talked to him by overseas phone in Singapore this morning. He stated that it was difficult to make a decision until he had at least read your letter. I am meeting him in Bangkok Thursday, March 14th, and am taking duplicates of the correspondence for his review. He said he would contact you as soon as he has had an opportunity to review the proposal.

Very truly yours,

James H. McGee

JHM:nm
cc: Mr. F. K. Cadwell

BEST COPY AVAILABLE

April 1, 1963

Unoco (Malaya) Limited
3rd Floor, American International Building
1, Robinson Road
Singapore, 1.

Attention: J.H. McGee, Vice President

Dear Jim:

I'm happy to hear you arrived safely at the home base.

I called Mr. Craig, upon arriving, and advised him that we had made contact in Pago -- that you worked like a Trojen and dug up all the facts.

Mr. Evich from StarKist Foods called last week and said they would enter into a long term contract to fuel their Japanese fleet. That would approximate ninety boats. I'm sure I could draw my old fraternity brother in from VanCamp for the same deal. I'd have to know more about the machinations of international carriers before trying to move in on Juan Trippe of Pan Am. Delivery of Polynesian Airline would be easy.

I had to pay the hotel bill anyway, so your Hong Kong dollars wouldn't have helped. Thank you for the thought anyway.

You missed out on a donnybrook at the Chamber of Commerce meeting. As usual, it was Turnbull vs. Kn[illegible]buhl. Chief Pele got loaded (stingers) and was ready to use his spear on me for catching Mike in parliamentary boo-boos.

Hope something can work out in Pago. We can post any kind of minies required to qualify. In the meantime talk to the Parish about morality and bycycles.

Regards,

RAYMOND C. TURNBULL,
President

April 25, 1963

Mr. J.H. McGee
Unoco, Ltd.
408-9 Takshinga House
Hong Kong

Dear Jim:

Received your letter of April 17, 1963 in Pago for which many thanks.

The purpose of this letter is to correct a rumor that Ron Pritchard may have included in his letter to you. The Governor's answer to the monopolistic outlet of Standard Oil is Union Oil Company. If Unoco or Union decide to come to Pago there would be no reason for the government to install tanks of their own and ask for world bids on their requirements. Evidently, this rumor emanated from the man who runs the power house and is evidence of the fact that one hand doesn't know what the other hand is doing, at least in Pago Pago.

I trust that a decision will be forthcoming from Union within a short time. Our whole lease from east to west will practically be one building, the construction to be under way within a relatively short time. The creation of a ledge across the street from the plant to hold tank batteries should be accomplished prior to our construction if this fill is to be used to construct the marine station lying seaward of our present lease.

This particular cutting and filling operation using RD-9's should not represent a long drawn out operation. Personally, I believe this phase could be completed in ten days.

I may or may not have told you that Mr. Evich of StarKist offered a long term contract to fuel their Japanese fishing fleet. H.R.H. Prince Tungi of Tonga advised me as of last week during our stockholders meeting in Tonga, that the Kingdom of Tonga would purchase all of their requirements from Union Oil Company in Pago.

Ron Holman of Pan American Airlines has advised that their jet fuel contracts at this time are with Shell Oil Company on a system-wide basis. This connotes, at least to me, that whatever benefits are derived by Standard Oil Company from fueling P.A.A. planes can accrue to Union instead of Standard without trying to upset the present existing contracts.

Polynesian Airlines presently going to Western Samoa are moving into DC-3's and will extend their coverage to Fiji, Rorotonga and Tonga.

Mr. J.H. McGee
Unoco, Ltd.
Page -2-

April 25, 1963

The stockholders of P.A.L. have assured me that they will enter into a long term contract also with Union to supply all their fuel and lube requirements.

At this time, I can foresee Union fulfilling the total requirements of American Samoa rather than dividing the pie with Standard. Jake Evans has finished his three year contract with Standard and has been replaced by a Mr. Cupp. During his breakin period, I would like to move in and take the Island away from him.

No rumors of the impending arrival of a new oil company have circulated through Samoa. You are still referred to as the party interested in building a 23-story office building. Both Mr. Aspinall, the Attorney General and new Secretary of Samoa, and Mr. Jim Flannery, Treasurer of Samoa and assistant to Governor Lee, as well as Governor Lee, were very much impressed with your sincerity and ability to absorb so quickly the peculiar problems and answers to Pago Pago's needs.

I trust that the answers to Pago Pago will be forthcoming as soon as possible.

Regards,

RAYMOND C. TURNBULL,
President

cc:
Mr. W.R. Craig
Union Oil Center
Los Angeles

May 6, 1963

Mr. J.H. McGee
Unoco, Ltd.
408-9 Takshinga House
Hong Kong

Dear Jim:

Governor Lee passed through here last Friday night. He wanted to know if Union's feasibility study was still underway and he mentioned that he would hold up any plans for government tanks until Union or Unoco decided. He prefers your thought of putting pipelines direct to government facilities on an alltime basis. He also mentioned that the government would clear out that channel so the Dracona could be brought opposite the old airstrip.

I have been picking at him to knock out the 3¢ fuel tax on the grounds that he was keeping business away. He agrees to knock it out when the bulk plant is in. This info will not be available to Standard until your plans are executed. Before Standard knows, and after you have your figures on a laid-down price in Pago, I would like to work out a long term contract with the Thor Line and two new lines that will be servicing Pago. "Fustest with the mostest" is my slogan.

I have made very tentative arrangements to purchase the Bank of American Samoa. This has been a long drawn out mission. I hope I opened the door by offering the Governor a loan for his Samoan Development Company (hotel caper). The Bank of America will be corresponding bank and will help in any extraordinary enterprises. In the event Union would like to finance all or any part of the Pago venture, I'm sure it can be arranged easily.

Read recently that water in Hong Kong is precious. If you take a walk downtown something is bound to happen - a la Pago.

Regards,

RAYMOND C. TURNBULL,
President

PACIFIC COCONUT PROCESSING CORPORATION

H. R. H. PRINCE TUNGI
CHAIRMAN OF THE BOARD
RAYMOND C. TURNBULL
PRESIDENT
S. T. NAKAO
VICE PRESIDENT
REESE H. TAYLOR, JR.

EXECUTIVE OFFICES
8530 WILSHIRE BOULEVARD, SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE: OLEANDER 5-5761
GENERAL OFFICE AND PLANT
PAGO PAGO, TUTUILA, AMERICAN SAMOA

May 6, 1963

Mr. J.M. McGee
Unoco, Ltd.
403-9 Takshinga House
Hong Kong

Dear Jim:

Governor Lee passed through here last Friday night. He wanted to know if Union's feasibility study was still underway and he mentioned that he would hold up any plans for government tanks until Union or Unoco decided. He prefers your thought of putting pipelines direct to government facilities on an alltime basis. He also mentioned that the government would clear out that channel so the Dreecas could be brought opposite the old airstrip.

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Read recently that water in Hong Kong is precious. If you take a walk downtown something is bound to happen - a la Pago.

Regards,

RAYMOND C. TURNBULL,
President

Tu 8

6

FORM CAS-118-C
(REV. 8/4/58)

GOVERNMENT OF AMERICAN SAMOA
COMMUNICATIONS DIVISION

RADIOGRAM

VPD/MR123 HONGKONG CK39 30 1122

RAYMOND
C. TURNBULL C/O RAINMAKER HOTEL
PAGOPAGO

Q94 PRESENTLY EVALUATING ECONOMICS OF SUPPLY POINTS STOP REGRET
DELAYS BUT UNAVOIDABLE OVERALL PROPOSAL IS FAVORABLE STOP WE RECOG-
NIZE YOUR CONCERN AND DOING ALL WE CAN STOP REGARDS TO GOVERNOR LEE
MCGEE

WESTERN UNION

TELEGRAM

W. P. MARSHALL, PRESIDENT

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

625A PDT AUG 2 63 LB003 OB170
O SFA340 (WUL146) 74/71 PD INTL FR OSF HONGKONG VIA RCA 2 1745
RAYMOND TURNBULL
8530 WILSHIRE BLVD SUITE 309 BEVERLY HILLSCALIF
Q261 UNION CALIFORNIA SOURCE PRODUCTS DO NOT JUSTIFY CONSTRUCION TAKAGE NECESSARY HOWEVER WE WORKING ON SOUTHEAST ASIA PROCESSING OF OUR CRUDE THAT SHOULD MAKE PROJECT PROFITABLE STOP EXPECT TO CONCLUDE THESE ARRANGEMENTS YES OR NO BY SEPTEMBER 10TH AND WILL BE
END SHEET ONE

Rec'd
9⁰⁰ AM
8/2/63

SFA340 HEET TWO

WESTERN UNION

TELEGRAM

W. P. MARSHALL, PRESIDENT

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

ABLE TO TELL YOU THEN UNION/UNOCO INTEREST AND WOULD DISPATCH ENGINEER TO SAMOA SOON THEREAFTER STOP IS THIS OK REGARDS
MCGEE

Unoco Limited
(Incorporated in Liechtenstein)

AN OVERSEAS SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

[illegible]
JAMES H. McGEE

408-9 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS "PETROLEUM HONGKONG"

No. JHM/9/788

September 13, 1963

Mr. Raymond C. Turnbull
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Ray:

I think the enclosed copy of a letter to Governor Lee will answer most of the questions you are no doubt waiting answers to. It is certainly unfortunate that the timing has been so bad because under normal conditions we would know within a much shorter period of time whether we can economically supply a market such as Samoa and could have given you a much faster answer. The proposed marketing station is good if a supply point can be developed that can be competitive - transportation-wise. In our case, the problem is somewhat more complicated because we are not at present supplying nearby markets such as; Fuji and Tahiti.

Our visit with Governor Lee was very enjoyable and he seemed to understand our problem and indicated before he left that we would have sufficient time to work this out but you can see from the attached letter that we do not want to embarrass you or the Governor by any more delays if such delays will be embarrassing to you.

Sorry I cannot meet you for the dedication this month but I am sure I will see you in November either in Hong Kong or Los Angeles.

Best wishes and kindest regards,

Sincerely,

Jim

JHM:gt

Unoco Limited
(Incorporated in Liechtenstein)

AN OVERSEAS SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

[illegible]
JAMES H. McGEE

406-9 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS "PETROLEUM HONGKONG"

No. JHM/0/787

September 13, 1963

Governor Rex Lee
Governor of American Samoa
Pago Pago
American Samoa

Dear Governor Lee:

We all greatly enjoyed the opportunity of seeing you and your delightful family during your stay in Hong Kong. We hope that your trip to Japan, Hawaii and return home was pleasant.

It was unfortunate that time did not permit us to review before you left the discussion you had with Mr. Cadwell at the Carlton Hotel. Realizing you had a great many other matters on your mind, I would like to review the present status as explained by Mr. Cadwell of our interest in constructing a terminal and marketing Union Oil products in American Samoa. I am sure you realize that we have had a serious interest in developing the above mentioned proposal, however, our studies indicate that American Samoa cannot be serviced by products from California and be competitive, but that the study also indicates that it would be possible to supply products from Singapore.

Mr. Cadwell explained that we are in a midst of serious negotiations regarding the future of the Maruzen Toyo Singapore Refinery and that if we stayed in this refinery as suppliers and marketers we can possibly arrange economical transportation to Samoa and proceed with the proposal. On the other hand, if the negotiations result in our not staying with the refinery as suppliers and marketers, there seem very little possibility of our making an investment in the terminal and getting a satisfactory return on our investment.

Mr. Cadwell assured you that he will keep you advised through Mr. Turnbull of our success, but if you have other companies that are interested in supplying to Samoa, we did not believe our questionable

.../2

ability to supply should keep you from negotiating with another company. We hope this does not sound pessimistic, but we are only trying to give you a frank and honest appraisal of conditions as they are at present. We have appreciated your patience and understanding of our problems and would appreciate the opportunity of working with you. Again, I would like to assure you that we will keep you advised of the results of the investigation mentioned above.

Best wishes and kindest regards to Mrs. Lee and the family.

Very truly yours,

James H. McGee

JHM:gt
c. c. Mr. Raymond C. Turnbull

September 23, 1963

Mr. James H. McGee
[illegible] Limited
[illegible] Takshing House
Hong Kong

Dear Jim:

Thank you for your letter of September 13th. I talked to Governor Lee in Honolulu while I was on my way home, and he didn't seem to mind the delay that you mentioned in your letter.

I talked to Prince Tungi about possibly putting on a small tanker to run from Singapore as far east as Pago. He would be interested, providing the ship could be kept busy. You can let me know whether there is any interest in that department, when and if your deal with Marubun goes through.

Got the wife to Pago this last trip and she didn't want to come home. Still hope to see you in November, either here or there.

Warmest personal regards,

Sincerely,

RAYMOND C. TURNBULL,
President

T4 14

UNOCO DEAL 2/28/64

KEN CADWELL, HEAD OF UNOCO, ADVISES THAT APPROXIMATELY TWO MONTHS MORE REQUIRED TO CLOSE UP THE SINGAPORE REFINERY DEAL. THIS PROJECT HAS REQUIRED NEGOTIATIONS BETWEEN TWO COUNTRIES. IT APPEARS THAT THERE ARE THREE STEPS POSSIBLE LEADING TO A CONCLUSION:

STEP 1 UNION OIL WILL OWN THE REFINERY OUTRIGHT

STEP 2 UNION OIL WILL MARKET PRODUCTS BUT ANOTHER OIL COMPANY WILL OWN REFINERY

STEP 3 UNICO AND OTHER U.S. COMPANY WILL HAVE NO INTEREST IN THE REFINERY

THE FIRST TWO REASONS WILL MAKE POSSIBLE UNOCO'S ENTRANCE INTO THE AMERICAN SAMOA MARKET - THE LAST REASON WILL PRECLUDE IT.

T4 15

Unoco (Hong Kong) Limited

AN OVERSEAS MARKETING SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Managing Director
JAMES H. McGEE

408 B TAKSHING HOUSE HONG KONG
TELEPHONE 38309
CABLE ADDRESS "PETROLEUM HONGKONG"

Letter No. JHM/3/182
March 3, 1964

Mr. Raymond C. Turnbull
President
Pacific Coconut Processing Corporation
Pago Pago, Tutuila
American Samoa

Dear Ray,

I just received a note from Bill Nero dated February 27 confirming that you contacted him on February 25. He stated that at that time he had not had an opportunity to discuss the subject and our interest in Samoa but that he would advise you as soon as Mr. Cadwell arrived in Los Angeles. Bill got the impression, and I can understand this, that you were quite disappointed to hear that the Singapore problem has not yet been resolved.

If you think this is a stall, I could understand why you might be quite provoked, but certainly, Ray, we would not intentionally keep stalling along, realizing fully well that had it not been for you we would not have had the opportunity to make the proposal. Mr. Cadwell pointed out to Governor Lee, in what I think was very clear terms, the problems and when Governor Lee left Hong Kong, he indicated to me that he completely understood why we could not go into the proposal until we knew that we could supply Pago Pago at competitive prices.

I know you agree that it is more honorable for us to be honest with you on this subject than to lead you on for the year that it has been since I first met you, indicating there were no problems. None of us had any idea that it would take us so long to resolve the complications surrounding the Singapore problem

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- 2 -

as a supply point. I am sending to your office under separate cover a very comprehensive and thorough survey of the entire South Pacific market which I hope will help to convince you that we have been serious in our efforts to develop marketing outlets for Union Oil Company of California in this area.

I hope your stay in Pago Pago will be pleasant outside of the problems we are causing for you and please give Governor Lee my best personal regards.

Very truly yours,

Jim

JHM:rm
cc: Los Angeles Office

74 17

Unoco (Hong Kong) Limited

AN OVERSEAS SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Managing Director
JAMES H. McGEE

408-9 TAKSHING HOUSE, HONG KONG
TELEPHONE [illegible]
CABLE ADDRESS "PETROLEUM HONGKONG"

No. JHM/267/3

March 18, 1964

Mr. Raymond C. Turnbull
President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Ray:

Your March 12 letter just arrived and I want to again tell you how much we have appreciated the loyalty and enthusiasm you have shown to and for the Union Oil Company of California and its overseas marketing subsidiary, Unoco Limited. Have you received my South Pacific survey yet? I am sure you will be interested in some of the figures shown indicating the potential in this area.

Sorry to hear that your lumber contacts postponed their trips to April 6th. Does this mean that you will returning to Pago Pago in April? When will the dredge go to Samoa? You have a splendid idea to utilize the dredge while it is there to fill in the area in front of your present facility. I hope you will save a small part of this for a marine station.

Kem will be back the end of this month and hopefully I will have more definite things for you soon after. We should be getting near the end of a long and frustrating period of negotiation and study.

Wish you were going to be in this part of the country end of this month as there is a grand prix in Singapore and Bob Harper is taking four or five cars down to enter. Bob is the Ford distributor in the Colony and has been racing the Lotus with some success.

Regards to all,

Sincerely,

Jim

*be

JHM:gt

Tu 18

March 25, 1964

Mr. James H. McGee
Unoco, Ltd.
408-9 Takshing House
Hong Kong

Dear Jim:

Thank you for the survey and my belated thanks for the "History Keepers".

I am enclosing herewith an artist's conception of what I intend to do in that bay at Tafuna. Its slightly out of scale, but will impress the civil servants. I'm ready to start when the legal is done. The water will be 45 feet deep to hold your larger tankers.

My lumber people will be with me on the April 11th trip. Will take them to Savaii, cut down a few trees and close the deal.

I must dredge up that area in front of the office prior to the plant's start-up. That will be in July. I haven't built anything between my office building and the marine railway, waiting to hear from Union. I have also advised Governor Lee that I would prefer to [illegible] on the hill rather than the apartments Star Kist wishes to lease from me.

My photography can't compare with an old pro like you, but two of the enclosed pictures show my office and quarters, the other one showing the section that will be filled and retained for refueling Japs. Incidentally, Star Kist informs me they have pulled seventeen of the Jap fishing boats out of Fiji, increased their Formosan and Korean fishing contingent to a total of sixty ships -- all to be operating in 90-days.

Have a wild one going now. I'm dealing with the Congress to let old Uncle Raymie get his feet wet first (and maybe exclusively) in the Trust Territories insofar as sugar plantations and fishing fleets are concerned. If you haven't already cased the area (3,000,000 square miles) for potential you should. The U.S. is going to surreptitiously hold a plebescite and wind up the owner. I want in early because Hawaii's big sugar outfits are running away from Harry Bridges and the Trust Territories are fabulous fishing grounds. Its good empire building material. Your run from Singapore could possibly be shorter.

Hope we can be together soon in Pago to celebrate a victory.

Regards,

Enclosures

Tu 19

March 8, 1963

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

Old grandma Turnbull is clipping articles again!

Don't know whether you have a tax or not, but thought you might be interested.

Placed the wood info in hands of the two largest cabinet makers for the big brand radio and TV companies. Meeting on March 11th with truck body company, which is interested in fabricating the bodies in Samoa out of local woods.

Union Oil has wired Cadwell, head of Unoco (subsidiary) in Hong Kong advising him to meet me in Pago about the 18th of this month. Will advise you on confirming date.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

March 28, 1963

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

The meeting of Chamber of Commerce resulted in a 15 to 4 decision to approve the petition to Congress, as prepared by the stacked board of directors. The four (Ron Pritchard, Burns Philp man, the guttural talking board member and myself) voting against the petition points up the simple fact that we could control the CofC by expending the $280 to buy memberships for a group that would take our orders. This is, in effect, what the older Kneubuhl did.

During the meeting Chief Pele sat there swilling liquor and getting loaded, building up a head of steam against me for taking sides against Mike. It was fortunate that I left immediately after the meeting because I heard later that Pele ran for his spear and was going to use it. That spear may be a symbol to Samoans but it would be considered a lethal weapon here, especially in the hands of a drunken native. His background of shooting, his monumental rages indicate a lack of stability. I am not afraid of Pele providing I am equally armed but my friends were alarmed enough to insist on escorting me back to my apartment and to the airport.

I should have a report and proposal for you from Unoco within two weeks. McGee went away with the highest regards for you and the business climate. I'm certain that Union will make every effort to do your bidding.

I would appreciate it if Mr. Aspinall would send me the Tax Exemption Certificate before he assumes his new duties as Secretary. I'd hate to start all over with a new A.G.

Thank you for your courtesy to Jim McGee and for your time on the airport inspection tour.

Yours very truly,

RAYMOND C. TURNBULL,
President

May 13, 1963

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

Am enclosing herewith some of the results of your press conference in Los Angeles. I think this is a great picture of you and your wife, which we will run locally at a later date. The other picture looks like Mike Kneubuhl just asked you an embarrassing question.

Have been waiting with baited breath for you to tell us to come down with our money to purchase the bank. We still stand ready to follow through and to give you evidence that the loan policy will be liberal enough to satisfy your requirements.

Checked with Jim McGee, and their feasibility study is almost completed. The parent company, Union Oil Company, is staying on top of this deal - especially after I advised them that you might put in government tanks and take bids on product. I have further indicated that the fill job on the seaward side of our lease must be completed shortly, or else there will be no way to get through the property on the grounds that our lease will be practically one long building. I am assured that they are moving at top speed and will be ready to negotiate with you shortly.

Before we go further in the Jasper Corporation wood operation, would it be possible, at government expense, to bring one of the Agriculture Department men to Samoa to cruise the timber potential of both Manua and Tutuila to determine the actual amount of lumber available for the plywood veneer business. Your agricultural figures on the amount of wood available is too vague to use in a multi-million dollar operation. On my next trip I want to make arrangements to ship various logs from Pago to Indiana so that Jasper Corporation can make veneer for the final testing leading to the creation of a plant in Pago. It would be most embarrassing if our deal was perfect except for a lack of wood.

Please advise whether or not it is possible to get a lumber expert to give us some actual figures.

Plan to be there on the 27th. Can you give me any prior indication that the bank deal can go ahead?

Yours very truly,

Tu 22

Enclosures

RAYMOND C. TURNBULL

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copy
R. H 11/18/63

November 18, 1963

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

I am enclosing herewith a letter received this morning on the wood caper which is self-explanatory, and a tentative lease area map prepared by the Wimberly offices. If the lease area behind the plant could be surveyed out by Brunton before my next trip to Samoa, which is tentatively slated for November 30th, maybe we could firm up some lease requirements and also look into the feasibility of switching back the extension of the already existing road as shown on the plan.

Prior to the dates set in the Habig letter, I hope to get some tentative arrangement worked out on the Savaii timber. I am going to have to, or this whole deal will fall on its head.

I received a letter from Jim McGee who advised his availability in Los Angeles the latter part of this month to discuss the bulk plant in Samoa. Since receiving the letter, I have had meetings with the Fletcher Oil Co., who have a refinery in Wilmington, California. Both Dan and Bob Fletcher are old polo playing buddies of mine from many years back. I have stimulated an educated interest in the possibility of refining Indonesian crude in Samoa. As you know, the Indonesian crude coming into the states has been jacked up $1.00 per barrel so as to not undercut the local producers. Fletcher is turning out diesel oil in the Los Angeles area at 8¢ per gallon and making a profit. In addition, they turn out gasoline and all the allied products. Subject to real pencil pushing on the requirements of both American Samoa and the possibility of marketing in other areas, the cost of diesel (8¢ per gallon) could probably be maintained in Samoa. A few days ago the thought occurred to me that Fletcher could produce the product and the Union Oil Company could market the product, thereby satisfying both businesses and getting the greatest coverage of products in the South Pacific. I have discussed with Fletcher this possibility and the idea is attractive to them. When McGee shows up, I will try it out on him. If we can put this deal together, it cannot only create good profit motive for the two companies, but it can attract the tramp trade to Samoa for the purposes of fueling. Local figures indicate that the tramp trade business leaves $17,500 per trip in the ports where they fuel, this covers provisioning and fueling. There is a potential value in setting up Samoan cooperative stores for the purpose of provisioning and supplying the other needs of such tramp trade. This operation could sure as hell kick the pants off Standard Oil Company, as well as reduce the cost of power to the industries that we hope to attract to Samoa. I will keep you advised on the attitude of Union towards this new wrinkle.

Tu 23

Governor H. Rex Lee
Page -2- November 18, 1963

I have taken a look at the plans of your hotel in Wimberly's office, and I propose that we enter into a labor contract to build your hotel. We will bid the total labor requirement and supply the required performance bond. I would advise Tonga against taking any portion of the contract less than the total contract for labor, principally because of their pride and ability to work uninterruptedly. They want to stand up and be counted on their ability, and if Tongan labor was co-mingled with Samoan labor, they would have to share the blame, if any, for the slowness of the job and possibly bad workmanship. The Tongans also are accustomed to starting work at 5:00 A.M. and working to 10:00 P.M. Obviously, trouble would brew between Samoans and Tongans. If yourMr. Picardi could intelligently plan the purchasing and arrival of materials and equipment for the hotel, the Tongan crew could do the job. If items like the laminated supporting members and other construction materials were backordered, we would have a crew standing by with nothing to do. I firmly believe that your construction schedule would be reduced, and I am certain that the overall costs can be reduced. One example of the savings we made was the slab for the plant. Had we purchased transit mix from you, the cost of the material alone would have run to $15,000. By bringing in our own cement, the total cost of material and labor approximated $5,000. By bonding this job we would be totally responsible for the completion of your project, thereby releasing your Public Works to other projects.

When the working drawings are ready, Pago Development, Inc. will submit to you a total labor bid. If accepted, we will put up a performance bond in that amount.

I have a cost figure on dredging out the bay at Tafuna. The cost, including the mobilization and the demobilization of the equipment, approximates $2,500,000. While this figure appears staggering, deep water frontage must be built to house the industries that I propose to bring to Samoa. I would like to go over with you on my next trip the areas best suited to create 100 acres of deep water frontage. I would feel like a jackass attracting industries there without having a place to put them. In the event you have forgotten our discussion in San Francisco, would you please try to include in the present Bill before the Congress the specific Tafuna location for the creation of new land from the present submerged land. I will be bringing a dredging engineer with me on the 30th to start preliminary engineering appraisals of Tafuna harbor.

Mr. Schieck just called to advise they were hoping to clear P.C.P.C. by December 15th. The machine will be ready by the end of this month.

I will keep you advised as I stoke my opium pipe.

Very truly yours,

RAYMOND C. TURNBULL,
President

Enclosures

November 20, 1963

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

If you have already started a file on Jasper Corporation, I am enclosing herewith the Dun & Bradstreet report on them. You will be able to determine which one of the group coming to Samoa is the most interesting.

Yesterday I talked to Jim McGee who is in Honolulu. He will be coming to Los Angeles December 2nd. I discussed with him the possible interest that Union might have in marketing the products that could be refined in Samoa. Jim seemed enthusiastic, and we will have meetings here with the Fletcher Oil Company after I return from Samoa on December 8th. One particular item of interest that he mentioned was the fact that [illegible] of the Indonesian crude was referred to as "hot oil", and major oil companies are [illegible] this oil because of the morality involved. It seems that Indonesia expropriated the Shell Oil Company's holdings in Indonesia, and the retaliation is in not processing this particular crude. Jim advised that there is plenty of good crude out of Indonesia, and that a combined operation with a refinery in Samoa could really open up that area with low cost products. Personally, I think this combination will be a tremendous boon to American Samoa, and at the present time, I am delighted with Jim's first feeling on the matter.

I was talking to Mr. Austin at the Bank of Hawaii, and from what I gather, you people are pretty well set on your hotel caper. Now that the financing is set, could we open up the big guns on the bank caper? I don't like to keep bringing up this particular subject, but Ralph [illegible] me. Its sometimes hard to hold people's interest over a long period of time. If there is any possibility of a purchase within a reasonable length of time, I can keep the deal alive. If you think its a dead issue, please advise and I will call off the dogs.

I still have my spies out looking for a 63 foot crash boat with the Packard engines. This should get you and your entourage to Manua in a hour and a quarter, and supply plenty of cockpit for fishing.

Captain Jacobs stopped in to see me and advised that he was preparing to hire a professional skipper. I made my offer to [illegible] the ships and return the crews by plane at my cost and expense, providing I could ship my plant machinery, and by so doing, save more than the cost of returning the crews to Los Angeles by air. I am waiting now for word concerning the amount of tonnage I will be able to carry on the lighter.

BEST COPY AVAILABLE

Governor H. Rex Lee
Page -2-

November 20, 1963

My last letter brings you up to date on the general arrival plan of the Jasper people and your friendly wine maker - me. I will be down on the 30th with the dredging engineer.

If there is anything I can do for you here, either wire or call me.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:
GAS/155
Serial: 2555

NOV 29 1963

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

This will reply to your letter of November 18, 1963, concerning several subjects.

Concerning the housing behind the plant, I have been specifically told by both Star-Kist and American Can that they are not interested in this area for housing under any circumstances. Star-Kist has indicated that the area in question will be needed for warehousing space instead of housing. I shall be glad to discuss this further with you upon your arrival here.

I noted with interest your letter from Mr. Habig, and will look forward to hearing how you make out on the Savai'i timber deal.

The question about refining Indonesian oil in American Samoa is an interesting development. I have two reactions on this: (1) While it would be extremely attractive to us in terms of getting cheap fuel oil and other oil products, I suppose that it would be very difficult to find a site that would be satisfactory for a small refinery in an area that would not ruin the tourist potential of the rest of the island. However, I would be glad to explore this with you. (2) Before we get too deeply involved in discussing this possibility, since it concerns foreign crude oil, I would want some advice from experts in the Department of the Interior who are charged with the certain responsibility under the law in regard to both foreign and domestic oil [illegible].

I am reasonably sure that the hotel corporation will be interested in your proposal to bid on the hotel. However, as I expressed to you on your last visit, this is something that will have to be handled very carefully and discussed with the corporation. The cost figure on the dredging was somewhat staggering but I assume that this is a very expensive operation. The day after we discussed this matter in San Francisco, I checked back with Washington and found that it was already too late to incorporate any new areas in the existing legislation so this would have to be done on a separate piece of legislation. I don't mean to sound pessimistic on all of these items you have come up with but they are all rather complicated and cannot be set up overnight.

Sincerely yours,

H. Rex Lee

H. REX LEE
Governor

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:

GAS/15B
Serial: 2553

NOV 29 1963

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Thank you for your letter of November 20, 1963, concerning a number of items in which you are interested.

I was glad to have the file on the Jasper Corporation and am looking forward to hearing how you make out on the Savai'i supply.

In regard to your discussion with Jim McGee, I will be interested in hearing further from you as to these discussions. The questions that you had on this were answered in my reply to your letter of November 18.

On the matter of the sale of our Bank, I am still not prepared to enter into any firm negotiations. We have not arrived at the point where I would be willing to do this and I do not know when we will be. I do want to assure you, however, that my feeling is that the Bank should be sold at the appropriate time.

In regard to our boats that are coming here, I was interested in your comment about Captain Jacobs' discussion with you. I advised Captain Jacobs that if you had a good crew that was available to bring the boats down, I wanted him to negotiate with you in relation to your cargo and crew and to try to work out some kind of arrangement. The last time I heard from him, he indicated to me that he had discussed the matter with you but that you did not have any kind of crew firmed up. I advised him to keep in touch with you and to work on the basis of either part or complete crew and also on the basis of your cargo.

I will be interested in discussing this with you on your forthcoming visit.

Sincerely yours,

H Rex Lee

H. REX LEE
Governor

December 13, 1963

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

Recapping today's conversation:

1. Jim McGee, after careful study of the South Pacific, indicates readiness to proceed on basis of bringing in finished products from Singapore, using new proposed land at Tafuna for major site.

2. Unoco would endeavor to capture markets in Tahiti, Fiji and Western Samoa - based on price and good service - the main operation emanating from Pago.

3. Secondary location in Pago in front of our office, tank battery on hill behind old power house. To service fleet and power house and plants. Dracone to haul from Tafuna to Pago harbor, force pump from dock to tanks.

4. Unoco willing to market products of a new refinery providing product worthy of Union name. I'm not overlooking fact that Union owns half of Singapore Refinery and would naturally plug their own investment rather than a new one in Pago. Contacted Fletcher Oil, who is standing by to receive figures from me - Union to supply market figures to me within week. Still believe there is possibility of refinery - will dig out facts and report on Fletcher interest.

4. Prefer to bypass apartment deal on hill until oil deal consummated. Have contacted Ross Moody for firm price on filling embayment with stateside dock. Expect figures in two weeks. Will advise.

Don Schmuck (kick that name around) of Dillingham will be coming down with me at same time Jasper comes. I'm trying to work out the all-American plan of dredging Tafuna, hotel site, Pago sites and Western Samoa - all at the same time, providing American Samoa is first. Also offered $125,000 cash for Kaiser #1 dredge, which I would lay off ultimately to Western Samoa for $250,000 providing both thee and me could gain some benefit - also Dillingham!

Talked to Milley of Pan Am in New York today concerning trunk lines from Pago to Tonga, Fiji, etc. - no interest. I thought speeded-up service from Pago to other areas could induce tourist traffic after hotel is in. Also offered to purchase 51% PAL and put two more DC3's into the traffic, including Tonga. They are still mulling this offer.

Governor H. Rex Lee
Page -2-

December 13, 1963

Still high interest in Dillingham to make new land at Tafuna. I'm going to have to hustle to put new industries on the reclaimed land. How much leeway can you give me to take advertisements in Wall Street Journal at my expense, to induce a lemming-like trek of business to Samoa? Can I give a box number with a provocative ad reading, "Industries wanting to enjoy an Industrial Tax Incentive Program in American Samoa write to Box ____"? I would like to get a feel of the market if you'll let me. Please advise on this. The answers could be handled by us or we could turn them over to you. I know your format and necessity for approval, but I'd like to get business clamoring - and fill that reclaimed area - otherwise we cannot substantiate the 2-1/2 million dollar expenditure.

I hope you are in Pago when I bring the wood boys down. We are going to need a push from the top - you.

Will advise as infor comes in.

Yours very truly,

RAYMOND C. TURNBULL,
President

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:
GAS/153
Serial: 2773

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

DEC 30 1963

Dear Mr. Turnbull:

This will reply to your letter of December 13, 1963. It is unclear to me from your letter whether UNOCO is prepared to start negotiations on the basis of their refinery in Singapore or whether they are holding off until there is a determination made as to whether such a plan might be worked out. If UNOCO is ready to start conversations, I would be glad to meet with them at any time. As soon as you have further information on the Fletcher project, as I indicated to you earlier, I want to check this out with Washington before making any decisions.

In relation to your putting an ad in the Wall Street Journal, I would prefer that you not do it at this time. There has been a great deal of discussion about the amendment of the tariff act in relation to its dealings with territories. There has been substantial criticism in the past two years in the Congress about some of the alleged abuses and I do not want to start a campaign of trying to get industries to Samoa because of either tax exemptions or tariff advantages. I will be glad to discuss this further with you on your next trip to Samoa.

Sincerely yours,

H. Rex Lee

H. REX LEE
Governor

Governor H. Rex Lee
Pago Pago
American Samoa

December 30, 1963

Dear Governor:

I will advise the importer of meats that the climate is not right for a processing operation in Pago Pago, as per your information today regarding the present congressional hassle on the subject of tariffs. I hate to see $105,000 a month to G.A.S. float out the window. A big change in tariff regulations could wreck our business.

For your amusement, I am enclosing a copy of an article that appeared in the Washington Post on December 25th. You can see somebody else thinks the coconut processing plant will succeed.

We are still waiting for that damned machine to come out of assembly. By the time it does, President Johnson will have probably dried up the give-away programs that we were planning on using. Inventive machinery such as ours always takes longer to assemble and get working correctly. They are working on it 24 hours a day, and I hope that everything will be out of the way by the end of January. In the meantime, I will be sending down our boilers and other equipment which is accruing at our freight forwarders.

I expect to meet with Jim McCee within the first few days of January to firm up a complete package to hand you. I will call you as soon as I hear the story. I would like to hold Union to the cost of filling in at the back of our plant, as well as create a new facility for them in the Tafuna area. In any event, it won't be long before we will be putting Tungi's 2600 ton ship alongside the plant to discharge coconuts, and I would prefer to have the crash program of dock making picked up by Union.

We have lightly used the words "rent" or "lease" your ship for the purpose of going to Savaii. I would appreciate knowing what these words mean in dollars and what, if any, credit can be charged against that lease or rent from the $1,634.00 formerly paid to G.A.S. for a non-existant paint job on buildings belonging to G.A.S. - all for the beautification of the Fifth Conference.

Would appreciate knowing more about the hassle concerning the tariffs in Congress. I had been advised earlier that the Virgin Islands textile trouble had been adjudicated.

Bob Pedersen, Vice-President of Star Kist, called me concerning the apartment caper. I amiled him a set of plans that Pete had sent me. They are evidently unhappy out in the countryside and wich to be in closer contact with the shops and activities. By the time the Union Oil deal is closed we can determine, at least from our part, the requirement for tankage on

the hill. I trust that this holdup for the apartments on your part is due principally to the pending Union deal. I agree that housing doesn't return very much in profits, and certainly does not contribute to economic growth. More of Star Kist plans will be available by my next trip. I am enclosing a preliminary drawing of Pete's which would follow the contour of the hill without disturbing the ground. Maybe a batch of these would fit your housing needs in the bay area. They would be constructed similarly to our office using redwood board and batt with a driftwood finish. You can select the interior paints because of your marvelous choice in the Tafuna housing - ugh!

If you get a change of orders putting you in the States the middle of January, please advise so I can run Union and the Jasper people into your corral.

Yours very truly,

RAYMOND C. [illegible],
President

Enclosures

March 18, 1964

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

I am enclosing herewith a rendering of our proposed harbor development at Tafuna - at least one can get the idea of what we have in mind.

Many factors have been allowed for in this concept, the aesthetic approach regarding the FAA housing area and its access to boating and swimming, as well as leaving beach sites for their recreation, club houses, and possibly the Goat Island site. The most important factor, in our estimation, is not disturbing the fishing grounds of the native villages surrounding this lagoon. I had earlier discussed with different Samoans the import of this lagoon for fish and for shell fish. The most important part is the foot of the bay and its mud bottom. Public relation-wise our concept stays in the disturbed area already hacked by drag-lines.

Another thought incorporated in our picture is to make readily accessible wharfage to your Public Works compound. The governmental control of the water front would insure wharfage requirements that your planners have projected up to 1968. This would result in tremendous saving to the Government in the Pago bay area.

Our rendering shows no ship tie-ups inboard facing the housing tract. This is deliberately intended so that no possible ship contamination can dirty the water inboard of the dock. The design takes into consideration the cleansing of the inboard area by tide changes. To our detriment, however, is the additional costly expenses of building another side to the docking area.

Our overall concept entails the landscaping of any proposed plant in a manner that would be not only compatible with the surrounding territory, but outstanding in beauty. I am a strong believer in having any light industrial plant constructed and landscaped in a manner similar to one's housing, complete with exotic outdoor lighting.

I believe Ned Wiederholt opposes this development as originally suggested on the basis that it would represent an eyesore to the housing area, as well as choking the tract off from the sea. I trust that this approach is more acceptable to his aesthetic tastes.

I suppose the real problem with this venture lies in a deal that the Congress will accept as more than advantageous to themselves and your Government.

Governor H. Rex Lee
Page -2-

March 18, 1964

As you said before, how can the Congress measure either the value of this project to them or to the people that create it. Instinctively, they will envision great profits for anyone who wants to do the project. I can draw up a Bill of Particulars showing the saving of $7 million to the G.A.S. over the next five years by having this docking available to the G.A.S. I could prove that the trucking costs alone from the Pago dock to Tafuna represent substantial savings when equated with a seagoing dock close aboard your Public Works Department. It can be easily shown that your whole effort to beautify Pago by removing the industrial overtones would be successfully and quickly attained by the movement of commercial shipping to the lagoon at Tafuna.

Furthermore, the only incentive for doing this project is in trying to attract commercial ventures that would return the investment and a profit to us. Again, the benefits of such industries, which are acceptable to you, would be beneficial to the general economy both in taxes and employment. Unfortunately, partial development is not possible to meet each individual business need. We must gamble the full cost of development and hope to attract acceptable industries. Prior to the submission to Congress, I would have some committed lessees acceptable to you.

If the master plan is completed and coupled with the harbor development, and if the projection of refueling, tramp ships and provisioning and ship chandlery can be assured to be a part of the overall plan, then cooperative stores could be developed in the area to attend such water front development.

This plan is purely to dream by, and probably would be more attractive if looked at with "lovely hula hands" playing in the background.

I would appreciate it if your planners could criticize it. There is no scale on the rendering, and my artist friend has misplaced the old study, but the general layout represents our present thinking. Complete engineering plans including coring information would be submitted for your approval.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

9:30 app. with Lee
Split cost of map

2 Dec. Monday morning — Haley not coming.

1. Letter from Governor — his fill requirements.
2. Agreement from Gov on where Tafuna land to be built — Immediate survey ordered and advertise immediately
3. Use of cat for 1 hour to run old road behind plant — discuss lease for apartments (5)
4. L.S.D. — Can we get it? (yes — split cost)
5. We fill land and make deep water dock — we move property line out to within 30 ft — no consideration to G.D.C. other than our present lease provisions — we need land for boiler house now.

PC PC

Standard Oil

Jack in Amer. Samoa

Cupp (a) Lease on new land Tafuna (5 Acres)
(b) Use land ours to service Japs.

Cupp advises:
See Cliff H. ~~Abr~~ Abrams (Head Wholesale)
Mr Ditter (Reg Mgr) or Olsen (Supt Pac Opr)
Mr. McKeown —
Mr. Bublis

Possible Lessees

26,190. 26,190. 104 / 26,190   8 | 73,000
15 3,000 / 471,000   26,190 / 157,140   5,738.00

Talked to in Hono. Mr Olsen — Standard Oil — Honolulu (possibly 5 Acres Tafuna)

G.A.S. — 5 Ac — 1200 ft frontage plus intransit shed.
They need 45' water —
Proposition calls for $2,000,000 over present pier — Can do so if Tafuna is done.

Points for Lee to discuss with Clarence.

18 March 20
1. 45 days to do total & 300,000 yds.
We can move into Apia and Asau harbor and move coral at 1.00 on April 30.
They are using small dredge — longer time — we complete earlier.

Governor H. Rex Lee
Pago Pago
American Samoa

April 22, 1964

Dear Governor:

Recapping our lumber caper I feel that something substantial has been started that will result in benefits to both Western Samoa and American Samoa.

Mr. Habig and I had long talks concerning the program and the format to be used. I thought your ideas of getting the maximum cooperation from Western Samoa were great, and I'm sure your suggestions will be utilized in the proposal.

Mr. Habig was already working on the pro forma while enroute to Honolulu. The old lumberman, who talks with mush in his mouth, remained sphinx-like throughout the trip until he got into the forest at Savaii - then the enthusiastic transformation - somewhat like the Freshman's first visit to the Follies.

I am trying to work out a deal to purchase the Kaiser dredge at a greatly reduced price so I can bring it down for a permanent berthing in Samoa. I am disappointed that we can't sweep through Nu'uuli Lagoon with the world's largest dredge (presently at Cebu, Philippines) and do the big land reclamation project within a six month period. It is unfortunate that Congress concerns itself so assiduously to the mineral-free tidelands of Samoa while lousing up the continental shelf that carries hydrocarbons. The Nu'uuli project would be invaluable to the Government if Pacific hostilities were to occur.

Would it make any sense to extend the Jasper requirement to 50 acres plus 10 acres for Union Oil and let us work on that project? With the dredge there we could always enlarge the area when new industries were approved by you. I can't see any other way to produce the land required.

Your suggestion on corporate matters involving the wood caper prompts me to inquire as to the feasibility of doing the same in purchasing the bank. I would undertake to furnish your requirements of ownership (people involved, price), the ownership to be in an American Samoa Corporation. The minority stock interest (49%) would be paid for by our group, but laid aside for Samoan purchase or possibly your Development Corporation. The ownership would then be communal. The Governor would automatically be a Director and some Samoan representation would be on the Board. If you are interested in this approach,

I could get a more formalized proposal made up for your consideration.

I will be leaving here April 30th for New York and the P.T. Boat Reunion convention through May 1, 2 and 3. I have an appointment to see Secretary Udall at my convenience. If I haven't set the time before April 30th, I will see him on May 4th. This is on a big deal in the Trust Territories and I'm going to alert him to my program before President Johnson tells him to expedite it. Don't laugh - strange things happen. Incidentally, I'm sure you already know it, but the boys upstairs are delighted with your administration of that "green hell". Its nice to be loved! John Bailey, Lloyd Hand, et al. are entranced. You know Bailey already and Hand is Godfather to LBJ's kids and vice versa.

If you will be in California on May 5th or 6th, please call and I'll pick you up at the airport to go boat searching.

Yours very truly,

RAYMOND C. TURNBULL,
President

June 2, 1964

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

I am enclosing herewith both the turndown letters on the Union Oil Company deal in Samoa and the press releases indicating the sale of the Singapore refinery.

British Petroleum has indicated no interest due to the low volume. While they are only 50 miles away in Apia, this sounds typical of British mentality and lack of imagination.

To back stop the Unoco deal, I had some meetings with the top brass of Mobil Oil in New York over a month ago to determine whether they could come into Pago with a full line of products and undercut Standard Oil. They indicated an educated interest, but advised that Standard had recently lowered their diesel price to 14.8¢ and the fishing fleet price to 14.95¢. They also advised that Star-Kist had entered into a 10-year commitment with Standard to buy 60% of their petroleum products, contract started in 1963. I knew, of course, that Mobil had been in canvassing the area two or three times, and once as recently as 1963. Mobil is interested enough to prepare another general proposal which will be made to you. I offered to supply two retail outlets in Pago in a first class manner a la Pete Wimberly - modern Samoan service stations - if their proposal to you was accepted.

I am now back on the refinery tangent, checking the feasibility of processing Kuwait crude. If we could bring the price of diesel and fishing fleet oil down considerably, the operation would be feasible. I will supply you with the information as it develops, keeping in mind your earlier warning that any refinery in Samoa would require study and authority from not only your Department, but the Interior Department.

The report that Union made for area marketing indicates a good potential in Tahiti, Tonga, Fiji and Western Samoa. Subject to all of your conditions and Interior's conditions, this approach

Governor H. Rex Lee
Page -2-

June 2, 1964

may be the answer to lower prices. In the meantime, I'll keep whacking away at Mobil and see where the chips land.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosures

DEPARTMENT OF THE INTERIOR

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:
GAS/6C(1)
Serial: 1409

JUN 8 - 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard, Suite 309
Beverly Hills, California

Dear Mr. ~~Turnbull:~~ Ray

This will acknowledge your letter of June 2. Governor Lee is presently in the continental United States on business. Your letter will be brought to his attention upon his return. I might say in closing that Kenneth W. Beck from Mobil Oil was here in American Samoa just a few weeks ago. He left us with the understanding that Mobil Oil will submit a new proposal in the very near future. We thank you for your interest in American Samoa.

Very truly yours,

OWEN S. ASPINALL
Acting Governor

American
Charles Small - will
[illegible] deal
Mobil

Hugh Keeley } N.Y.
Clyde Port }

June 11, 1964

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

I advised you earlier that I had been consulting with top management (Clyde Port and Hugh Keeley) of Mobil in New York for a period of five weeks in an endeavor to induce a proposal that might be acceptable to you. Kenneth Beck was in Samoa to look around, but the top American who can make a deal with you is Charles Small, who will be coming to Samoa sometime after July 7 when I wire him. I have already supplied Mobil with the Union report so as to set a low cost factor in their minds.

I will have some interesting delivered-to-Pago prices for you by the time you leave for Samoa. I'm hoping they will almost halve Socal prices. With this information you can beat their heads in - or make Mobil market the products with only the area and wholesale markup added. These prices are being furnished by Summit Industrial Corporation of New York with facilities in the Far East. Dr. Shaw is the venerable stuttering Chinese president. The company is reliable, well known and respected by the trade.

Yours very truly,

RAYMOND C. TURNBULL,
President

P.S.
Attached hereto are CIF prices per Summit Industrial Corporation.

R.C.T.

Enclosure

June 25, 1964

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

The latest communique from Washington regarding influence peddling on the P.C.P.C. loan is as follows:

Stanley Mosk, Attorney General for California, has a call into Luther Hodges and will talk to him today. Congressman Aspinall has ordered the three top men of the A.K.A. to his office for a full explanation of the turndown. Senator Jackson is working on it in his own mysterious way. Tommy Corcoran, the President's personal attorney, is working in his mysterious way. The Democratic National Committee Headquarters' Mr. O'Brien and Mr. Brawley are skulking in the underbrush for what they can accomplish. I have two people holding back until the results are in with the deadline being next Wednesday. If we haven't hit paydirt by that time, there will be a direct order emanating from the White House to put the loan through, and concurrently therewith, Senator Magnuson, Commerce Chairman, will enter the picture.

I talked to Marty yesterday and passed on the word that Gappa had given me (on the subject of signing papers) and Marty said, in effect, that all of his activities were being carried on now direct with the Washington S.B.A. office and that Gappa was just yapping on the sidelines. He also said that he had talked to Leon Langan, who had advised him of the command appearance of the A.R.A. before Aspinall. Marty seems to think that our loan picture is brightening.

To backstop all of the petroleum capers that I had been working on for you, I had talked to Asiatic Petroleum and they in turn had contacted London regarding new reduced petroleum prices for the American Samoa area. Yesterday, Mr. Galeon of Asiatic called me from New York and advised that their representative would like to be in Samoa sometime during the last half of July to discuss with you your petroleum problems. At the present time I believe the company that quoted the prices I gave to you will be interested in financing the whole marketing feature in Pago, as well as developing it to the extent where other markets can be serviced from the main plant in American Samoa. It was indicated to me by two Western Samoa officials that they were interested only in price and that they would replace their present suppliers, if we could come up with a reduced price in products and good service.

Prince Tungi would be interested in putting on a small tanker to service Western Samoa, Tonga, The Cooks, and maybe even Tahiti. It appears like an interesting project, if Pago could become the distribution center for that area of the Pacific.

Governor H. Rex Lee
Page -2- June 25, 1964

I talked to Bill Mullahey yesterday concerning our hotel venture in Guam, and he advised that while the world contract with Standard Oil could not be broken in the Samoa area, we could have tankage for jet fuel, sell it to the Government at cost, and the Government in turn could sell it and make a good profit to Pan American without stirring up the Standard Oil giant. Bill said that the costs of stopping in Samoa are exorbitant due to the fuel costs, and that a reasonable price for the fuel could have a bearing on increased activity through Samoa. I am getting together with Dr. Shaw regarding all aspects of the project and will advise you as to the outcome.

Bob Weesner, our new Treasurer of P.C.P.C. and the head of Wayne's production company, just called. Now that he is back from Washington and New York, we will finalize the plans to get you the two X-ray machines and the super master batch of heavy equipment from Peter Kiewit and Sons.

On the lighter side, I have decided to install electronic chimes at the plant site which will be similar to those you may have heard in the Waikiki area. They play a little song and then chime out the hour. We can get all kinds of tapes made, including Samoan songs, Christmas carols and whathaveyou. This will add a little touch to Pago Harbor, providing, however, that the dam Samoans don't drop their pick and shovel that they are leaning on and run to church every time the chimes ring.

I hope it fits your pistol to meet with representatives of both Mobil and Asiatic Petroleum sometime between the 15th and 30th of July in Samoa. Long before that time, however, we will have a deal laid on your desk from the Summit Industrial Corporation in New York.

Yours very truly,

RAYMOND C. TURNBULL,
President

July 1, 1964

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

I am enclosing herewith the information and breakdown of Dr. Shaw on setting up a facility in Pago. If you will adapt the CIF prices that I gave you to these costs, you will see we can be in the ball park. Please hold these figures confidentially.

When I can determine what our total market can be, and if that figure is reasonable, we can come down to work out a deal with you and get started immediately thereafter on putting in the facility. I must tote up the total number of barrels that we could reasonably expect to sell to your Government, to the Japanese fishing fleet, to Tonga, to Western Samoa, to Polynesian Airlines and to Fiji. It would help in the compilation if you could have one of your snoopers obtain the total throughput of Standard Oil on all petroleum products.

Dr. Shaw believes the main tank batteries should go out near your Public Works Department, and that a self-propelled barge drawing very little water should make the trip into Pago Harbor from Nu'uuli lagoon to a T-dock in front of our plant and pump the fuel by an underground pipeline to a small tank battery behind the old power plant.

Using the figures in your 1962 Annual Report for your power house requirements, and adding the fuel requirements of industry and the fishing fleet, the tank requirements on the slope would not be too large, and somewhat of the size of the two new tanks we just put in at P.C.P.C. to catch rain water. These tanks are 1,000 barrels each.

It is contemplated that pipe lines could be put directly into your power plant and into the industries next to P.C.P.C.

The final stage before completing this deal is compiling the market potential. The mechanics would entail an American Samoa corporation which would distribute not only in American Samoa, but the other areas in that part of the Pacific.

I am very much impressed with Dr. Shaw, and believe we can have more action and less talk than with any other company. Dr. Shaw is also willing to put in one or two beautiful stateside service stations.

I think we have something here as to price, and knowing your desire to clean up the petroleum picture, I will move as rapidly as possible to fill your requirements.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

C O P Y.

GOVERNMENT OF AMERICAN SAMOA

PAGO PAGO, AMERICAN SAMOA

GENERAL SUPPLY DIVISION.

July 27, 1964.

SPECIFICATIONS AND PRICES OF FUEL, LUBRICANTS, OIL PURCHASED FROM STANDARD OIL CO. OF CALIFORNIA.

PRODUCT	PRICE	
Chevron Gasoline, Gravity 60°F. 63.5, 82.8 Octane Lead 2.7	.193	
Chevron Diesel Fuel, Gravity 60°F. 38.4, Flash Point 200°F. Viscosity 100°F. 3.73, 57 Cetane Colour - Yellowish, Pour Point +30°F. Carbon 0.05°	.165 .168	C.T.[illegible]
White Gasoline, Gravity 50.8, 75.0 Octane Carbon 1, End .385	.305	
Pearl Kerosene, Chevron, Gravity 44.1 Viscosity 1.70	.228	
Super RPM Delo Special, SAE 40 Super RPM Delo Sp. SAE 30 Super RPM Delo Special SAE 20 } 55 gal. Drums	.88 [illegible]	[illegible]
[illegible] Solvent, No.25, 55 gal. Drums	.79	Gal
RPM Delo Supercharged 3-30 Lube Oil, 55 Gal. Drums	1.063	Gal
Chev. M/M Oil, [illegible], 55 gal. drums	1.017	Gal
Standard Thinner, No.350, 55 gal. Drums	.528	Gal
RPM M/Serv Gear Lube 90, 35 lb. containers	7.53	Can
RPM M/S Gear Lube 140, 415 lb. drums	.20	lb.
Chevron Plastic Cement, 5 gal. cans	7.72	Can
Chevron Starting Fluid, 12 oz. cans to case	1.85	case
Chevron Grease, Heavy Duty, 120 lbs. to drum	44.25	Dr.

* Indicates Tank Truck Delivery - Charges
Indicates customer Tank Truck Delivery.

T4 48

DEPARTMENT OF PORT ADMINISTRATION

LIST OF MAJOR PETROLEUM PRODUCTS IMPORTED
BY STANDARD OIL CO. FOR THE FISCAL YEAR 1964

July 1, 1963 - June 30, 1964

DIESEL FUEL	5,256,914 Gals	①	✓
OIL LUB.	54,701 Gals	⑥	
OIL, OTHER	38,829 Gals	⑦	
GREASE	12,066 Gals	⑧	
GAS MOTORS	420,728 Gals	④	
JET FUEL	3,312,164 Gals	②	✓
GAS AVIATION	992,944 Gals	③	
KEROSENE	204,202 Gals	[illegible]	

7,292,548 Gals

461-[illegible]/day

T4 049

PACIFIC COCONUT PROCESSING CORPORATION

H. R. H. Prince Tungi
Raymond C. Turnbull
S. T. Nakao
Reese H. Taylor Jr.

Executive Offices
8530 Wilshire Boulevard, Suite 309
Beverly Hills, California
Telephone: OLeander 5-5761
General Office and Plant
Pago Pago, Tutuila, American Samoa

Governor H. Rex Lee
Government House
Pago Pago, American Samoa

October 15, 1964

Dear Governor:

The following represents accurate figures on the petroleum caper and an offer to kick around:

1. The storage capacities would include one Mogas tank of 20,000 bbls. floating roof, one Kerosene tank of 10,000 bbls. cone roof, and two Diesel tanks of 35,000 bbls. each with cone roof.

2. The cost for these tanks should be around U.S. $250,000. The pipelines, pumps, accessories, jetty etc would bring the total installation cost up to $500-600,000. (cost of land disregarded)

3. The total turnover in Pago of 20,000 tons per annum would require only a 12,000 ton tanker every six months. Of course I am holding out to the investor that other markets can be developed in the future.

4. I propose that the land across the street from PcPc, including the old power house, be leased on a long term basis, the rental being $2,000. per year for the first two years, $7,000. per year the following two years and $14,000. per year thereafter. I refer to the land on the slope above the power house for the tankage. The payout on the total investment will be too long if the lease payments are anything more than a giveaway, especially in the light of having to undercut Standard substantially.

5. The format would include, in effect, three parties. One would pay for the capital improvements, one would deliver the products required (our Chinese friend) and the other party would be the operator. It is understood that you would have to clear the whole deal from beginning to end but the last unknown, at this time, is your thoughts on lease rentals - also the inclusion of the old power house as part of the deal. Could you kick it around and let me know your thoughts. I then can weave a gossamer web around the principals.

Enclosing letter received in answer to my letter concerning that PIM article on the President Johnson Cult in the Solomon Islands. Note the signature - this guy just got bumped for being a hero.

Yours very truly,

Governor H. Rex Lee
Government House
Pago Pago, American Samoa

November 15, 1965

Dear Governor:

I have submitted to you, detailed proposals concerning new petroleum facilities in Samoa, the financing company that will disburse fuel products directly to your powerhouse and to the fish companies and the drawings of the tank batteries on the hill across from PCPC.

We have discussed your problems with Standard Oil Co. and their high rates for all petroleum products, our talks and planning having spanned nearly three years. During that time I have brought UNOCo from Hong Kong, Mobil from Australia and Summit Petroleum from New York and Thailand. Months have been spent working out suitable locations for tank sites, not only in Pago Harbor but also at Tafuna.

Our agreement with Summit is in effect and the delivered costs of petroleum products to your government, to the fish companies and to PanAm will be less than one-half of the cost charged by Standard Oil Co.

You advised me earlier that my proposal would not be used to influence Standard to lower their prices but the result has been the same, in that they have lowered their prices temporarily to discourage competition.

In a meeting in your Pago office in May you advised that you would make a decision. Could I expect an answer from you shortly?

Yours very truly,

Raymond C. Turnbull

Last page missing

OCEANIC PETROLEUM CORPORATION

REPORT ON EXAMINATION

DECEMBER 31, 1963

Tu 52

OCEANIC PETROLEUM CORPORATION

BALANCE SHEET

DECEMBER 31, 1963

ASSETS

Current Assets		
Cash in Banks		$ 112,430.72
Accounts Receivable		1,984,145.35
Other Receivables		116.617.70
TOTAL CURRENT ASSETS		$2,213,243.77
Accounts with Affiliated Companies		
Summit Industrial Corporation (Panama)	$1,882,992.09	
U.S. Summit Corporation (Panama)	178,423.00	
Oceanic Process Corporation	51,612.37	
U.S. Summit Corporation	230,000.00	
Peninsula Petroleum Corporation	75,832.83	2,418,862.74
Investment - Thai Asphalt Mfg. Co.		242,130.74
Loans Receivable		319.782.80
TOTAL ASSETS		$5,194,020.05

Tu 53

OCEANIC PETROLEUM CORPORATION

BALANCE SHEET

DECEMBER 31, 1953

L I A B I L I T I E S

Accounts Payable			$2,208,533.30
Accrued Expenses			10,333.93
Loans Payable			22,000.00
TOTAL LIABILITIES			$2,247,930.23

C A P I T A L

Capital Stock		$ 1,000.00	
Surplus			
Balance	$2,300,406.11		
Net Profit for the Year - January 1, 1953 to December 31, 1953	644.687.71	2,945.093.82	
TOTAL CAPITAL			2.946.093.82
TOTAL LIABILITIES AND CAPITAL			$5.194.023.05

T4 54

GEORGE R. FUNARO & CO.
CERTIFIED PUBLIC ACCOUNTANTS
370 LEXINGTON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-8464

R. FUNARO, C. P. A.
BERGMAN, C. P. A.
HEN, C. P. A.

May 14, 1954

Board of Directors
Oceanic Petroleum Corporation
Panama City, Panama

Gentlemen:

The fiscal year of Oceanic Petroleum Corporation ended on November 30, 1953, for which period the annual report had been previously submitted.

This report covers the twelve month period - January 1, 1953 to December 31, 1953.

George R. Funaro & Co.

T4 55

June 8, 1964

Mr. J.T. Shaw
Summit Industrial Corporation
120 Wall Street
New York City, New York

Dear Mr. Shaw:

As per our telephone conversation today, I am enclosing herewith the report that was prepared by Unoco in Hong Kong. The pencil notations are mine and not part of the report.

It was Unoco's opinion that the figures obtained made it worthwhile to market in the Society Islands, the Cook Islands, Tonga, Fiji, Western Samoa and American Samoa.

The American Samoa government is interested in reducing the cost of petroleum products below the prices presently charged by Standard Oil of California. The fisheries, Van Camp and Star-Kist, operate out of Pago Pago using Japanese fishing fleets. The requirements of the government power plant is diesel-run generators. Pan American presently operates one trip per week on its Honolulu-Sydney run. They intend to increase to three weekly runs through Samoa. If fuel was more reasonably priced, the jet fuel requirements could be obtained by a new marketer. Polynesian Airlines from Western Samoa presently refuels at Pago with aviation gas. Pan Am's DC-7 servicing Auckland, New Zealand, dead-heads and refuels at Pago.

The requirements for all petroleum products are increasing rapidly, and certain coming events presage an important market.

It is requested that a general consideration be given to marketing in American Samoa, and a meeting be held in the States if the interest developed warrants further detailing.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure (1)

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION
TELEGRAM
W. P. MARSHALL, PRESIDENT

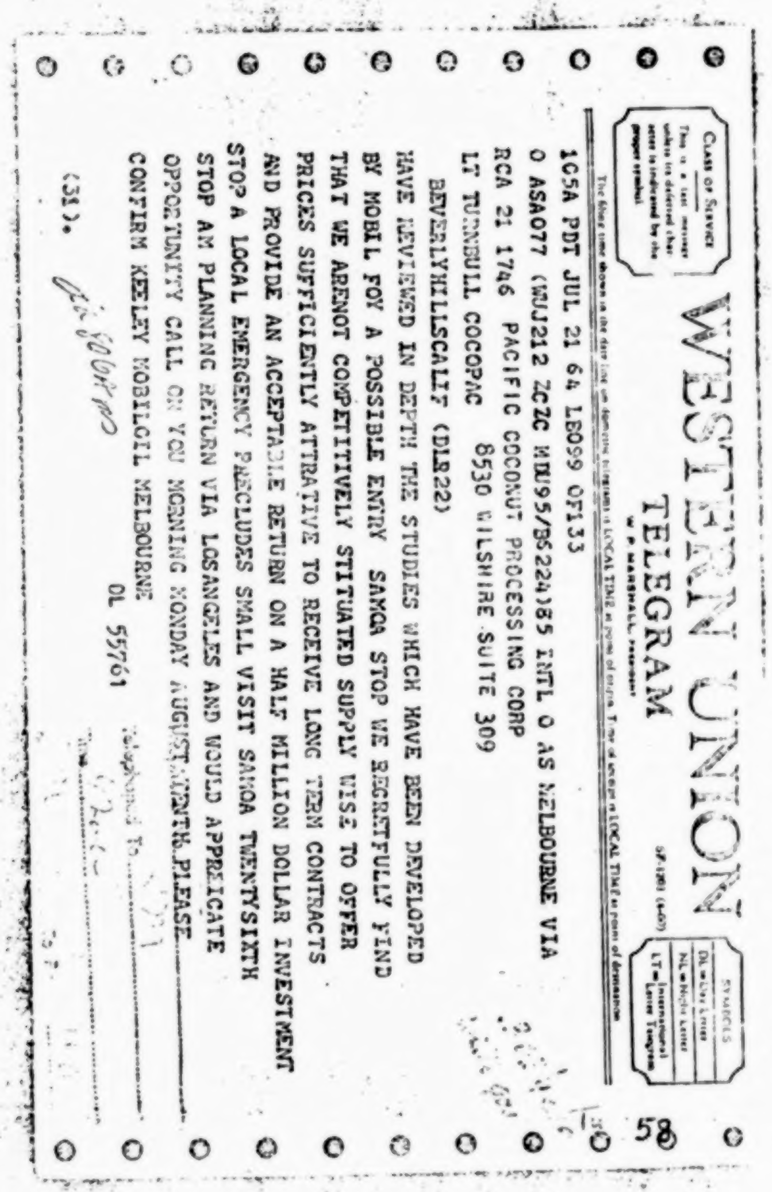
SF-1201 (4-60)

DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

938P PDT JUN 12 64 LA455
L BHA578 (N RSA025) DL PD RS NEW YORK NY 12 558P EDT
RAYMOND C TURNBULL, PACIFIC COCONUT PROCESSING CORP
8530 WILSHIRE BLVD SUITE 509 BEVERLY HILLS CALIF
ON TANKER LOAD OF ABOUT 15,500 LONGTONS CONSISTING 3 OR 4 GRADES NET CURRENT PRICE CIF PAGO PAGO IN CENTS PER U.S. GALLON FOLLOWS: MOGAS - 93 OCTANE 10.80 MOGAS - 83 OCTANE 8.50 KEROSENE 11.55, HIGH SPEED DIESEL 55/57 INDEX 9.65 INDUSTRIAL DIESEL OR NO. 4 FUEL 9.15 BUNKER C FUEL OIL 6.42 EXTRA SHIPPING COST ON 2500 TON TANKER AT LEAST .25 CENTS PER GALLON HIGHER
SUMMIT J T SHAW

15,500 3 4 93 10.80 83 8.50 11.55 55/57 9.65 4 9.15 6.42 2500
.25
(36).



WESTERN UNION
TELEGRAM

105A PDT JUL 21 64 LB099 OF133
O ASA077 (WUJ212 ZCZC MDU95/BS224)85 INTL O AS MELBOURNE VIA
RCA 21 1746 PACIFIC COCONUT PROCESSING CORP
LT TURNBULL COCOPAC 8530 WILSHIRE SUITE 309
BEVERLYHILLSCALIF (DLR22)

HAVE REVIEWED IN DEPTH THE STUDIES WHICH HAVE BEEN DEVELOPED BY MOBIL FOY A POSSIBLE ENTRY SAMOA STOP WE REGRETFULLY FIND THAT WE ARENOT COMPETITIVELY STITUATED SUPPLY WISE TO OFFER PRICES SUFFICIENTLY ATTRATIVE TO RECEIVE LONG TERM CONTRACTS AND PROVIDE AN ACCEPTABLE RETURN ON A HALF MILLION DOLLAR INVESTMENT STOP A LOCAL EMERGENCY PRECLUDES SMALL VISIT SAMOA TWENTYSIXTH STOP AM PLANNING RETURN VIA LOSANGELES AND WOULD APPREICATE OPPORTUNITY CALL ON YOU MORNING MONDAY AUGUST TENTH PLEASE CONFIRM KEELEY MOBILOIL MELBOURNE

DL 55761

(31).

Telephoned To

58

July 22, 1964

Mr. J.T. Shaw
Summit Industrial Corporation
120 Wall Street
New York City, New York

Dear Mr. Shaw:

I am enclosing herewith the figures that you requested on the present consumption of petroleum products in American Samoa. When I receive the figures from Tonga I will send them on to you. I will try to get the figures from Western Samoa while I am on this trip.

I will make arrangements with Governor Lee to meet with your people when they show up to make the survey. I will also go over our general idea of getting a location for the main tank battery. The docking area in front of my plant that would be used to refuel the Japanese fishing fleet is already an acceptable proposal with Governor Lee. We need only to obtain, free I hope, land for the main tank battery.

With reasonably priced fuel, and the Governor knocking out the fuel tax which he promised to do if we come into Samoa, this will entice the tramp trade for refueling. We already have the Kingdom of Tonga who will do all of their refueling at our facility, and I will undertake to bring into the fold the Australian cruise ships and the Thor Line presently servicing Pago Pago.

You have established a good format from which I can work - that format is 3,000 barrels per day of petroleum products. Getting the military contract and the PanAm contract by selling to the government who, in turn, will sell to PanAm should enhance our program.

I will check with you on my return and advise as to the progress made.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

T4 . 59

October 1, 1964

Mr. J.T. Shaw
Summit Industrial Corporation
120 Wall Street
New York City, New York

Dear Mr. Shaw:

I am enclosing herewith the Tonga requirements. These do not include the bunker and diesel used for their three ships, the largest ship being a 2300 d.w. ton cargo carrier. These ships normally fuel at Suva, Fiji, but will fuel in Pago when we are set up.

I just talked to General Steamship Company who are the agents for the Thor Line. These ships service Tahiti, Pago, Western Samoa, Fiji, Noumea and the Pacific Coast. They average 961 long tons of fuel topping off in Los Angeles and make approximately one trip per month. The breakdown of the 961 long tons is -

175-200 long tons diesel - 800 bbls.
765-800 long tons bunker C - 3200 bbls.

There is a possibility that we could include this line in our overall estimate of business. Their two ships are the THOR I and the THORSISLE.

I have yet to talk to the Daiwa Navigation Co., Ltd., Nederland Line, Royal Dutch Mail, and the Union Steamship Company of New Zealand. I think our quantities could be made up sufficiently from these lines.

With the exception of the jet fuel that Standard presently sells to Pan American in Samoa, I am certain that we could take over all of their business inasmuch as the fish companies as well as the government have agreed to come with us.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

CONTENT

1. Purpose
2. General Information
3. Investment
4. Profitability and Payout to Tank Investor
5. Standard Oil Co. Specifications and prices to Government
6. Dock and Tank Battery Location
7. Dock Bid - Walker Moody Construction Co.
8. Tank Bid - Chicago Bridge & Iron Co.
9. Balance Sheet - Petroleum Supplier

SUMMIT INDUSTRIAL CORPORATION
120 WALL STREET
NEW YORK, N.Y. 10005
CABLE ADDRESS SUMITIND
TELEPHONE WHITEHALL 4-7491

October 14, 1964

Mr. R. C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Blvd.
Beverly Hills, California

Dear Mr. Turnbull:

This is referring to your letter of October 1, 1964 and our telephone conversation on the subject of petroleum sales to the south sea islands. From the information given in your letter dated July 22nd, I figured out that you should only count on the sales of diesel fuel, mogas and kerosene. The sales of jet fuel and aviation gasoline will have to depend upon your future negotiations with Pan Am. Since, usually, the profit margin for aviation bunker is not too attractive, I suggest to discount the income from such aviation fuels. The sales figures submitted by the Tonga Construction Company as per your letter of October 1st appeared to be rather insignificant. You will see what I mean after you review the following tabulations:

	Pago Pago	Tonga	Total
Mogas	420,728 gal. 10,017.33 bbl. (1,135 tons)	270,000 gal. 6,325 bbl. (730 tons)	690,730 gal. 16,342 bbl. (1,865 tons)
Kerosene	204,200 gal. 4,861.95 bbl. (608 tons)	97,000 gal. 2,310 bbl. (279 tons)	301,200 gal. 7,172 bbl. (887 tons)
Diesel	5,256,914 gal. 125,164.62 bbl. (16,700 tons)	190,000 gal. 4,525 bbl. (600 tons)	5,446,914 gal. 129,690 bbl. (17,300 tons)

TOTAL TONNAGE

Pago Pago - 18,434 tons
Tona 1,609 tons

From the above, you will see that the largest single item of sales is the diesel fuel. I propose to consider a sea terminal at Pago Pago with the following storage capacities:

1 - Mogas tank 20,000 bbl. floating roof 840,000 gal
1 - Kerosene tank 10,000 bbl. cone roof 420,000 "
2 - Diesel tanks 35,000 bbl. cone roof (each) 1,470,000 gals each
Total - 4,200,000 gals.

I estimate the cost for these storage tanks should be around U.S. $250,000. I do not know how far the jetty and pipelines should be built. Assume that you can find a location where the depth of water of about 30 feet is not too far from the shore, then the cost of construction for pipelines and jetty will not be too much. If you can find such a place, the cost of construction might be around $250,000. Taking into consideration the pumps and other accessories and a modest office building, I believe you should get the whole thing done for around $500,000/$600,000 (cost of land is disregarded). If you can keep these expenditures within the above mentioned figures, then I believe the venture would still be worthwhile. You can see that the annual turnover is not more than 20,000 tons. We will have to arrange a very small tanker, say about 12,000 tons, to deliver cargoes to Pago Pago at an interval of every six months. The freight rate would be a little higher than what I estimated previously.

From your letter of August 6th, I realize the diesel fuel is sold by Standard Oil of California at around 16.5¢/gal. We shall have a gross margin of 6¢/gal. If you allocate 2¢/gal. to pay the capital investment which will amount to about $100,000/year, it takes 5/6 years to get the investment back. You will have to allocate about 1¢/gal. for the administrative expenses and you should have about 2/3¢ per gallon net income for each gallon of products sold. You will have to give commissions to a dealer if you choose to sell the products through a second party. In that case, the dealer's income will have to be taken off from the above-mentioned net profit.

When you have a sea terminal at Pago Pago, you will be able to take care of the neighborhood islands such as Tonga. Shipment can be made from Pago Pago by barge or in steel drums and such drums can be carried by fishing boats or cargo boats. The drums can be returned for further use. If you take a look at the price indicated by Tonga Construction Company, you will find it is very high indeed. This high price is perhaps due to shipment by drums in smaller lots. If anyone is willing to invest the money for the storage facilities, I believe you can negotiate for the rent of not more than 2¢/gallon with an option to buy at a depreciated value after five or seven years.

Fuel oil for ships/ bunker is not considered new because of the extremely low consumption involved.

If I can be of further help, please do not hesitate to call upon me.

Very truly yours,

SUMMIT INDUSTRIAL CORPORATION

J. T. SHAW
PRESIDENT

JTS:EG

T4 264

Mr. J.T. Shaw, President
Summit Industrial Corporation
120 Wall Street
New York, N.Y. 10005

October 21, 1964

Dear Mr. Shaw:

Pacific Coconut Processing Corp. proposes to make a $500,000. six year loan from the Bank of America in order to purchase and install one 20 000 bbl. Mogas tank, one 10 000 bbl. Kerosene tank, two 35 000 bbl. Diesel tanks, pipelines, jetty and all pumps and accessories pertinent to the construction and operation of a bulk petroleum plant. The location of the tankage and loading facility will be on deep water frontage (30' min.) in Pago Pago Harbor.

P.C.P.C. proposes that the Summit Industrial Corporation guarantee the loan that Bank of America makes to P.C.P.C.

The bank will have first mortgage on the whole petroleum installation. In addition, P.C.P.C. will give to the bank, as collateral, the first mortgage on $1,300 000. of fixed assets belonging to P.C.P.C.

P.C.P.C. will repay the loan to the bank on a basis of a flat 35-$50,000. per year plus the equivalent of 1-1/2¢/gal. times five million gallons per year.

When the loan is paid Summit Industrial Corporation and P.C.P.C. will own the total petroleum installation on a 50/50 basis.

During the term of the loan period P.C.P.C. will purchase all petroleum products from Summit Industrial Corp. and will undertake a vigourous market expansion program in the South Pacific.

Your earliest consideration of the above proposal would be appreciated.

Yours very truly

Raymond C. Turnbull

T4 265

OCEANIC PETROLEUM CORPORATION
ARCIA BUILDING
JUSTO AROSEMENA AND ECUADOR AVENUES
P. O. BOX 6307
PANAMA, REPUBLIC OF PANAMA

PLEASE REPLY TO:
NEW YORK REPRESENTATIVE
SUITE 810
120 WALL STREET
NEW YORK 5, NEW YORK
TEL: WH 4-0490

November 4, 1964

Mr. Philip Hosp, Vice-President
Bank of America
Sunset Boulevard at Wetherly
Los Angeles, California

Dear Mr. Hosp:

We understand from Mr. Raymond C. Turnbull of Pacific Coconut Processing Corp., that you are interested in our operation. For your confidential reference we are sending you herewith our financial report as of December 31, 1963, as audited by the George R. Funaro Co., of New York.

If you have any questions, please do feel free to let us know.

Very truly yours,

OCEANIC PETROLEUM CORPORATION

C. P. Young

CPY:es
Enclosure:

✓ CC: Pacific Coconut Processing Corp.,
Attn: Mr. Raymond C. Turnbull

T4 66

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15 January 1965

Mr. J. T. Shaw, President
Summit Industrial Corporation
120 Wall Street
New York 5, New York

Dear Mr. Shaw:

I am enclosing herewith the estimates covering a pier and the petroleum storage tanks for American Somoa. The bid on the tanks appears to be salted with additional costs and in my estimation can be reduced at contract time. The dock quotation is reasonable for that area and will serve two purposes, one of which will be the re-fueling of the Japanese Fishing Fleet, as well as transmitting the oil ashore.

I propose to use the offices of our own company, rather than to construct a new facility. The tank battery area will be directly across the street from the office and the terminal itself will be on the seaward side of the office.

In my discussions with Governor Lee, I have stressed the importance of free rental for the tank site for a period of years with a slow graduation of lease cost thereafter, all to be on a reasonable basis in the final lease considerations. I propose that the free time on the lease be extended throughout the term of the pay-out period of the investment.

It is proposed that an arrangement be worked out wherein the actual costs of the installation be borne by your company, rather than by guarantying a loan through a bank.

The Governor, on my most recent visit, also agreed to the long term Government contract, the Military Aircraft contract, and as you know, both Star-Kist and Van Camp have agreed to cancel their standard contract in favor of our new endeavor.

T4 67

I met with H.R.H. Prince Tungi this week in Honolulu and he agreed to not only pick up his Country's requirements at our dock, and on his ship, but to re-fuel his fleet at our terminal. This would materially increase our sales to Tonga.

I have already advised you that I have leased the Island of Palmyra for a period of 79-years and taken the lease in the name of a newly formed Panama corporation called Tidewater Development Corporation. Concrete tanks are already in place and piped to dolphins for easy loading.

I have just made arrangements with the Dillingham Corporation to dredge the channel entrance to 30-feet so that our tankers and other support ships can come into the harbor. There are many possibilities on this island that warrant investigation. We have our own 6,000-ft. strip and docks, already completed. We are not subject to any Civil Code, nor do we have Federal or State taxation, providing personal income from Palmyra equals 80% of one's total income, and 50% of a Corporation income is derived from the island.

My attorney advises that any new corporation dealing in any specific business on the island would be exempt from all taxation. We are not in a Custom's area, therefore, we can bring in anything, - and we can further bring in any foreigners without subjecting them to passport scrutiny, agricultural or health restrictions.

Tremendous interest has been engendered on this particular island not only from Scientific Research groups, but by hotels, gamblers, lotteries and tour people. In addition, certain Canneries are interested in setting up on Palmyra, Naturally, following the Japanese, Korean or Formosan Fishing Fleets that can take advantage of the exemption that prohibits the landing of fish from a foreign fishing boat in anUnited States Port.

I am reciting this island's advantages with the thought that you might possibly know anyone in Thailand, Horg Kong, or Singapore that would be interested in creating some particular business that might fit on the island. I cannot help but feel that the freedoms from taxation laws, or Civil Code and general restrictions, while still being under the American Flag, is not rare and valuable. If there is any area of interest among any of your acquaintances, I would be happy to have you participate in the over-all Development Corporation. I would appreciate your comments on the financing of the petroleum terminal in Pago Pago, the possibility of supplying diesel and 115-Octane fuel to Palmyra, and the suggestions you might have on Palmyra Island.

Yours very truly,

T.

RT:jw

Raymond C. Turnbull

Pacific Coconut Processing Corporation

H.R.H. Prince Tungi
Raymond C. Turnbull
S.T. Nakao
William B. Haughton
Robert D. Webster

Executive Offices
9530 Wilshire Boulevard, Suite 309
Beverly Hills, California
Telephone: OLeander 5-5761
General Office and Plant
Pago Pago, Tutuila, American Samoa

Mr. J.T. Shaw, President
Summit Industrial Corp.
120 Wall Street
New York, New York

April 6, 1965

Dear Mr. Shaw:

Now that I have checked out the annual sales of diesel fuel and have received straight information concerning the doubling of the Japanese fishing fleet in Pago Pago by May 30, 1965 it is apparent that the sales of diesel can exceed ten million gallons alone in Samoa without taking into consideration sales to Tonga.

If diesel fuel can be delivered CIF to Pago at 9¢ we will have long term contracts with Starkist Foods Inc, Van Camps and the Government of American Samoa. If the specification on the diesel was the same as the present spec on Standard Oil Co. diesel in Samoa the formula would look like this:

9.00¢ CIF diesel fuel, Gravity 60^{0}F. 38.4, Flash
Point 200^{0}F. Viscosity 100^{0}F. 3.73, 57
Cetane, Color-yellowish, Pour Point $+30^{0}$F.
Carbon 0.05^{0}
1.25¢ Payout on investment of $500,000.
1.60¢ Operation, profit, sinking fund
11.85¢ Price to end user.

The other petroleum products would remain the same price, subject of course to fluctuations in the world market.

I will, if required, arrange for the financing of the full facility, including docks, fueling buoys, tanks, pumps and pipelines. I am very much interested in your suggestion that the tanks could be put in on a deferred payment plan plus your suggestion that the actual material and the labor to erect the tanks could be obtained at a lesser cost than that price advanced by Chicago Bridge & Iron Co.

Inasmuch as both the Governor and the fishing companies are urgently interested in making a deal could you supply me with some of the answers concerning not only the above questions but the method of payment for the product as it is sold - whether it is on consignment until sold etc?

If I can obtain bona fide long term contracts would this suffice, as a good enough guarantee, to create the financing of the installation? I propose to form a new small American Samoa Corporation in order to avoid corporate taxes for ten years. All of the stock could be held by the financing party until they were paid out. I will undertake to get the land free during the term of the payout. I would appreciate your immediat counsel.

Regards, Raymond C Turnbull

T.

TIDEWATER DEVELOPMENT CORPORATION

8530 WILSHIRE BOULEVARD
SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE 655-5766

April 13, 1965

Mr. J.T. Shaw, President
Summit Industrial Corporation
120 Wall Street
New York 5, New York

Dear Mr. Shaw:

I am enclosing herewith a copy of the letter sent to Van Camp Sea Food Co.. Another like letter was sent to my friends at Starkist Foods, Inc..

I personally know everyone at both Starkist and Van Camp and we have discussed their problems at length. The enclosed letter was a more formal presentment required by their Board.

I have, as you already know, made the proposal to Governor Lee and he will act quickly on the overall plan. If Gov. Lee makes up his mind quickly he can bring pressure to speed up the consideration of the fish companies.

Present methods of billing in Pago Pago for fuel has the companies giving credit to the fishing fleet and taking it out of the fish when delivered. Starkist says it would be easy to handle that end of it - they would just pay us directly and then take it out of the fish catches.

For the purpose of protecting our proposal in a concerted effort it might be wise to turn aside any independent inquiries made to you regarding petroleum products for American Samoa. One never knows what fish companies will do - or for that part territorial governments!

Will keep you informed as things develop.

Yours very truly,

Raymond C. Turnbull
Raymond C. Turnbull

Bruce Dodge . PAA Fuel purchaseman.
212-995-2121 - Ext 5125

Th. 70

SUMMIT INDUSTRIAL CORPORATION
120 WALL STREET
NEW YORK, N.Y. 10005

CABLE ADDRESS SUMITIND

TELEPHONE WHITEHALL 4-7491

April 19, 1965

Mr. Raymond C. Turnbull
Tidewater Development Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

This is to confirm our telephone conversation of this morning on the supply of jet fuel, JP 1A, as follows:

1. We can furnish jet fuel, to Air Turbine Fuel 1-A specifications, which is currently being used by leading airlines in the U.S.A., such as PAA, NWA, and others. The requirements at Pago Pago is about 3.5 million gallons per year, which is a little over 10,000 tons a year. We are sure that we can meet the requirement in quality and quantity.

2. Our price to the importing company will be 11.5¢ per gallon.

3. The importing company shall provide storage facilities and the tank-truck loading equipment. It is suggested that the importing company shall charge 2¢ per gallon for the repayment of tankage facilities and another 2¢ for operating expenses, including profit. Therefore, the oil sold ex-tank-truck will be 15.5¢ per gallon at the Terminal, Pago Pago.

4. From the tank-truck, either the Government or the importing company can deliver to the airport and serve the airlines. On this part of the servicing, it is very difficult to estimate the operating expenses. If the airport is equipped with underground fuel tanks and also other facilities, and such facilities can be used at a nominal rent, then the expenses for airport services should be around 1.25 ¢ per gallon.

[illegible]

Th. 71

5. For your information, our company has been furnishing petroleum products to a number of foreign governments, among which the largest one is Oil Field Organization of Thailand. We have been selling oil to this customer since 1957. We are also the only Western supplier selling petroleum products to the Indian Oil Corporation. We have an affiliate company in Thailand, Thai Asphalt Manufacturing Company, Ltd., which produces petroleum oil and lubricating oil. We are able to supply a complete line of lubricating oils. Please, therefore, you can assure the Government of American Samoa of our reliability as a supplier.

Very truly yours,

SUMMIT INDUSTRIAL CORPORATION

J. T. Shaw

J. T. Shaw
President

JTS:sg

TERMINAL SALE - Ex-bulk Plant

COSTS INCLUDE:
(1) CIF price for oil
(2) Terminal overhead
(3) Repayment of investment (7)

Based upon 3,000 barrels per day

365 x 3,000 = 1,095,000 barrels per year

Repayment of investment = $\frac{161,000}{1,095,000}$ =		$.15
Maintenance =		.05
Payout =	Sub-Total	$.20
Operating cost =		.50
	Total	$.70/bbl.
		1.67¢ per gallon
Delivery cost 15¢/bbl = (Sub-Terminal)		.36¢ 2.03¢ per gallon

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Tankage 250,000 bbls. @ $2.00	$500,000.
Pipe line	100,000.
Sub-terminal	30,000.
Pier and jetty	50,000. ✓
Loading facilities	30,000.
Pumps	10,000. ✓
Barge - self-propelled 300 ton non-propelled	150,000.
Contingency	50,000.
	$920,000.
Interest - 6%	210,000.
	$1,130,000.

Depreciation 1,130,000 ÷ 7 = $161,000 per year

IF DAILY SALE IS 1500 BARRELS THEN YOU MUST ALLOW 4.06 CENTS PER GALLON FOR INVESTMENT RETURN AND OPERATING COST.

C.I.F. PAGO

Motor gasoline - 93 octane	10.80¢ gallon
motor gasoline - 83 octane	8.50¢ gallon ok
Kerosene	11.55¢ gallon ok
Diesel (Lightest) 57 [illegible] [illegible]	[illegible]? - 9.60¢ gallon
Diesel (Industrial)	~~9.15¢ gallon~~
Bunker "	6.42¢ gallon ?
Aviation jet-fuel - JP4	~~8.00¢~~ gallon
Aviation jet fuel - JP1 A	11.5¢ ~~11.55¢~~ gallon - 15.5¢ FOR TPA[illegible]

Tanker hauling above products - four varieties at a time, would be [illegible] hauling 15,500 long tons at a time. (115,632 bbl)

Smaller tankers (2500 ton variety) can carry same products but price is 2½¢ per gallon more.

Suggest an offshore fueling connection to tank batteries at Tafuna area in lieu of creating new deep water facilities at Nu'uuli Lagoon. We can get tank battery financing.

TURNBULL

22¢ by SoCal JP.

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:
GAS/15B
Serial: 17[illegible]

Mr. Raymond C. Turnbull
Pacific Coconut Processing Corporation
8756 Holloway Drive
Los Angeles 69, California

JUL 22 1965

Dear Mr. Turnbull:

This letter will acknowledge yours of July 6. Governor Lee is presently in the continental United States. When he returns on or about September the 1st, we will bring your letter to his attention.

Sincerely yours,

OWEN S. ASPINALL
Acting Governor

August 25, 1965

Dear Mr. Shaw:

The formal proposal was sent by William McCook to Governor Lee in Washington. Three days later McCook followed it up with a phone call for an appointment with the Governor in Washington. It was decided that McCook and the Governor would meet sometime this week. In the meantime, I have rounded up the fish companies and they are waiting for the Governor to come out here and act as the catalyst to obtain the letter agreement from all parties.

The deal looks good and if there are any flaws I can't find them.

I can't find Palau Bukom on my world map and can only surmise that it is in the Strait of Malacca. Is this so? I must get ready for the inevitable question, "What will be the source of the product in the event Southeast Asia goes under.?" I have told McCook that a source could be developed out of Colon from the Ludwig-Continental people but I believe it necessary for you to advise me on an alternative source, inasmuch as you will be the supplier.

It is the opinion of Starkist that Standard Oil will leave Pago Pago if we obtain a long term contract from industry and Government. I cannot subscribe to that opinion, but in the event they do leave we would become the monopoly. We would darn well have to be sure of our supply.

I talked to Jerome O'Brien, head of the Union Bank Oil Department and U.S. Nato oil expert, concerning a long range possibility of putting in a refinery at Pago Pago - and what attitude the Defense Dept. would take concerning such a venture. He believes it would be negative. I thought the present conflict might merit a crash program using Government money.

Before the formal proposal was made to Lee, he had called me from Washington to advise me that his interest was still high on the new Terminal. I believe we have a live one after this long time and I will keep you advised by phone as the deal breaks.

Yours very truly,

Raymond C. Turnbull

8756 Holloway Drive
Los Angeles 69, Calif.

C.I.F. PAGO

Motor gasoline - 93 octane	10.80¢ gallon
motor gasoline - 83 octane	8.50¢ gallon
Kerosene	11.55¢ gallon
Diesel (lightest)	9.65¢ gallon
Diesel (Industrial) #4	9.15¢ gallon
Bunker C	6.42¢ gallon
Aviation jet fuel - JP4	8.00¢ gallon
Aviation jet fuel - JP1	11.80¢ gallon

Tanker hauling above products - four varieties at a time, would be hauling 15,500 long tons at a time.

Smaller tankers (2500 ton variety) can carry some products but price is 2¢ per gallon more.

Suggest an offshore fueling connection to tank batteries at Tafuna area in lieu of creating deep water facilities at Nu'uuli Lagoon. We can get tank battery financing.

TURNBULL

DREDGE OPERATION
COST BREAKDOWN

Towing charge barge Honolulu to Samoa	$60,000
Price of dredge	175,000
Cost of operators ($60,450) Personnel - Tongan ($20,150)	80,600
Equipment - Welding	50,000
Fuel at $50/day	20,150
Barge rental	10,000
Refurbish dredge	25,000
	$420,750
2,200,000 cu/yd × 55¢ for 100 acres	$1,210,000
	$1,630,750

NOTES:

403 days (3000 cu/yds per day)

$20,150 fuel for 403 days at $50/day

$60,450 labor $150/day for 3 men

$20,150 - Tonga - 10 men at $5/day

Wm. R. McCook

August 13, 1965

Governor H. Rex Lee
Office of Territories
Department of Interior
Washington 25, D.C.

Dear Governor:

We desire to establish a petroleum bulk facility in Pago Pago Harbor, American Samoa, geared to supplying all of the government's and industry's requirements.

We propose, therefore, that a long-term contract be entered into between ourselves, the Government of American Samoa, Starkist Foods Inc., Van Camp and Pan American Airways, in which we will agree to sell and you will agree to buy two grades of diesel fuel, JP-1A jet fuel, motor gasoline and kerosene with prices based upon the Palau-Bukom posted price schedule which will vary with the world petroleum market. All lubes, greases and solvents can easily be furnished so as to round out the complete line of petroleum products.

We have a firm commitment from Oceanic Petroleum Corporation of New York to deliver the products CIF to us in Pago Pago. Based upon the August 3, 1965 Palau-Bukom posted price schedule, our delivered price of diesel products to the government powerhouse via metered pipelines, would be .114 per gallon. The marine diesel would be delivered dockside to the fishing fleet at .1125 per gallon. The JP-1A jet fuel price into PAA tanks would be .1700 per gallon and the 93 octane motorgas would be .1630 per gallon.

The cost of the fuel, investment amortization, supporting facilities and operation are included in the above quoted prices. Not included in any costs are taxes imposed by G.A.S. It is our understanding that the fish companies and their contracted fishing fleet pay no fuel taxes, the same exemption applying to Government. The 17¢ per gallon quoted for JP-1A could bear a reasonable tax and still be under the price now paid for "Standard" fuel.

Depending upon the IRS approved depreciation schedule to be used on the terminal bulk facility we would undertake to turn the whole facility back to the Government for one dollar in sixteen years and lease the facility at a fair rental fee.

It has been suggested by "Starkist" that you act as the catalyst in this proposal. The principals and the chain of command is as follows: Oceanic Petroleum Corporation, J. T. Shaw, President will deliver the product to Pago Pago. A new Samoa corporation, to be formed, and to be headed by myself,

WM. R. McCOOK

GOVERNOR H. REX LEE
PAGE TWO

WILL TAKE DELIVERY OF THE PRODUCTS INTO OUR TERMINAL FACILITY AND DISPENSE THE PRODUCTS TO GOVERNMENT, INDUSTRY AND AIRLINE.

IF THE FOREGOING PROPOSAL IS ACCEPTABLE IN PRINCIPLE, IT IS REQUESTED THAT A MEETING BE HELD WHILE YOU ARE STILL IN THE U.S. FOR THE PURPOSE OF DISCUSSING AND FINALIZING ARRANGEMENTS AND POSSIBLY EXECUTING A LETTER AGREEMENT BETWEEN ALL INTERESTED PARTIES.

VERY TRULY YOURS,

WILLIAM R. McCOOK

WRMcC:VMR

CONTENT

1. Purpose
2. General Information
3. Investment
4. Profitability and Payout to Tank Investor
5. Standard Oil Co. Specifications and prices to Government
6. Dock and Tank Battery Location
7. Dock Bid - Walker Moody Construction Co.
8. Tank Bid - Chicago Bridge & Iron Co.
9. Balance Sheet - Petroleum Supplier

PURPOSE

To obtain a full requirements contract from the Government of American Samoa for a period of from six to ten years - to supply fuel to the Government powerhouses, to the Government motor pool, to Public Works.

To obtain a full requirements contract from Starkist Foods, Inc., Van Camps Sea Foods, Pacific Coconut Processing Corporation and American Can Company - to supply their plant requirements.

To obtain contracts from Starkist and Van Camp to supply the fishing fleets of Korea, Japan and Formosa that service the two canneries by contract. There are presently seventy five ships operating, with an increase to 125 ships expected by December.

To obtain the contract to furnish the jet fuel to Pan American Airways. They presently make one weekly stop going and coming from Australia to Los Angeles. Reduced fuel prices will divert two trips of PAA from Fiji-Australia to Samoa-Australia.

To obtain the military contract to fuel U S. Airforce Australian and New Zealand Airforce.

To obtain the contract to supply all petroleum requirements of Kingdom of Tonga on an FOB Pago Pago basis, and to fuel their merchant marine in Pago Pago Harbor.

GENERAL INFORMATION

On the basis of talks held over a period of two years with the Governor of American Samoa, the Premier of Tonga, Pan American officials, the officers of Starkist Foods Inc., Van Camp and Pacific Coconut Processing Corp, there is a strong possibility of obtaining firm commitments to supply petroleum products in such quantities as to make feasible the construction of a Terminal Bulk Plant in Pago Pago, American Samoa.

A proposal has been submitted to all interested parties wherein petroleum products have been offered at a substantially lower price than those prices presently being paid for products of Standard Oil Co.

The following quoted prices, subject to the Singapore posted price, are listed herewith for comparison purposes·

	Proposed prices	Standard Oil Co.
JP1A Jet Fuel	17.00¢	22.50¢
Diesel (Light)	11.40	11.95
Diesel (Marine)	11.25	11.95
Kerosene	17.05	22.80
Mogas	16.30	19.30

The supplier of the products proposed is The Summit Industrial Corporation, 120 Wall St., New York, New York 10005, Telephone Whitehall 47491, J T. Shaw, President.

This company has been furnishing petroleum products to a number of foreign governments, among which the largest one is Oil Field Organization of Thailand. They have been selling oil to this customer since 1957. They are also the only Western Supplier selling petroleum products to the Indian Oil Corporation. They have two refineries in Thailand and have an affiliate company, Thai Asphalt Manufacturing Co, Ltd., which produces petroleum oil and lubricating oil

Their references Unoco, Hong Kong, and Union Oil Company indicated the highest degree of responsibility and honesty. Their financial responsibility has been investigated by Bank of America through the Auditing firm of George R. Funaro Co. of New York.

BREAKDOWN OF PETROLEUM COSTS TO SAMOA

JP-1A - Based on 7,000,000 gallons per year to PAA

		Tank Investor	Operator
13 50¢	CIF Pago		
1.50	Tank Investor	$ 105,000.	
.50	Operator		$ 35,000.
1.50	Servicing PAA		105,000.
17.00¢	per gallon to PAA		

Light Diesel - Based on 4,000,000 gallons per year to Government

9.65¢	CIF		
1.25	Tank Investor	125,000.	
.50	Operator		50,000.
11.40¢	per gallon to Government		

Marine Diesel - Based on 6,000,000 gallons per year - fishing fleet.

9.50¢	CIF		
1.25	Tank Investor	90,000.	
.50	Operator		30,000.
11.25¢	per gallon to fishing fleet		

Pearl Kerosene - Based on 300,000 gallons per year

13.55	CIF		
2.00	Tank Investor	6,000.	
1.50	Operator		4,500.
17.05¢	per gallon.		

Motor Gasoline - 9 [illegible] - Based on 600,[illegible] [illegible]-yr.

.80¢	CIF		
[illegible].00	Tank [illegible]	12,000.	
1.50	Opera[illegible]		9,000.
16.30¢	per [illegible]		

INVESTMENT

$ 220,000.	110,000 bbl./tankage at $2.00/bbl. rule of thumb cost. Enclosed bid is less than $2.00/bbl.
95,000.	Cost of completed 150' concrete dock as per enclosed bid.
100,000.	Fueling buoys, flexible fueling hoses to dock, pipelines to tank battery, pipelines to powerhouse, to Starkist, American Can and Van Camp, pipeline back to dock to fuel fishing fleet, pumps, fitting and dock gear.
85,000.	Contingencies and barrel overage required.
$ 500,000.	Total Investment

PROFITABILITY AND PAYOUT TO TANK INVESTOR ON EXPENDITURE OF $500,000

JP-1A - Based on minimum of 7,000,000 gallons jet fuel to Pan American Airways and military contract - at 1 25¢ per gallon	$ 105,000
Light Diesel Fuel - Based on 4,000,000 gallons to Government powerhouse - at 1.25¢	125,000
Marine Diesel Fuel- Based on 6,000,000 gallons per year to Japanese, Korean and Formosan fishing fleet operating under contract to Starkist Foods, Inc and Van Camps - at 1.25¢ gallon	90,000
Pearl Kerosene - Based on 300,000 gallons per year to Government and native population at 2¢ per gallon.	6,000.
Mogas 93 Oct. - Based on 600.000 gallons per year to Government and population - 2¢ gal	12,000
TANK PAYOUT/YR.	336,000

C O P Y.

GOVERNMENT OF AMERICAN SAMOA

PAGO PAGO, AMERICAN SAMOA

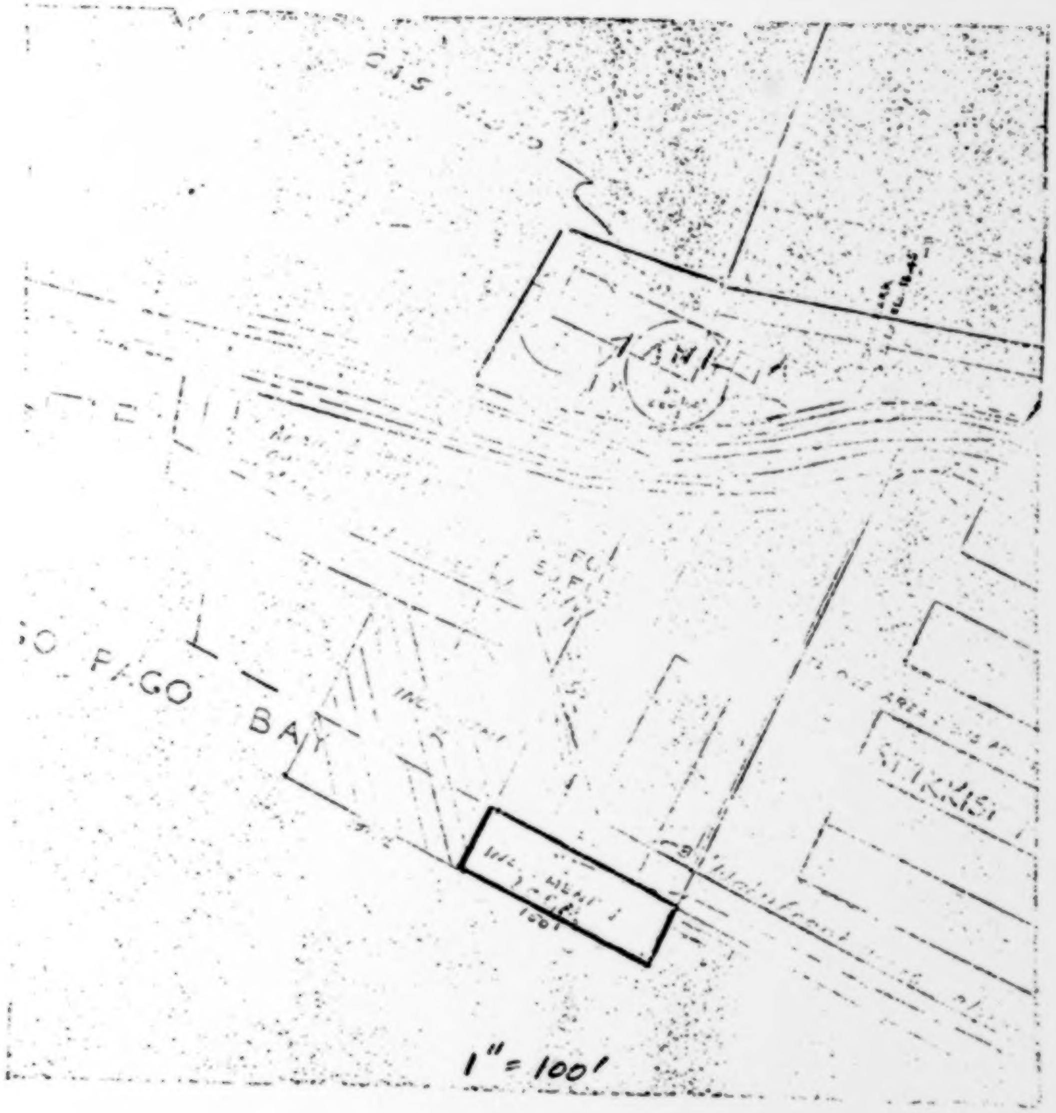
GENERAL SUPPLY DIVISION.

July 27, 1964.

SPECIFICATIONS AND PRICES OF FUEL, LUBRICANTS, OIL PURCHASED FROM STANDARD OIL OF CALIFORNIA.

PRODUCT	PRICE	
Chevron Gasoline, Gravity 60°F. 63.5, 82.8 Cetane Lead 2.7	.193	
Chevron Diesel Fuel, Gravity 60°F. 38.4, Flash Point 200°F. Viscosity 100°F. 3.73, 57 Cetane Colour - Yellowish, Pour Point +30°F. Carbon 0.05°	.165 .168	C.T.T. *
White Gasoline, Gravity 58.8, 75.0 Octane Carbon 1, End .385	.303	
Pearl Kerosene, Chevron, Gravity 44.1 Viscosity 1.70%	.228	
Super RPM Delo Special, SAE 40 } 55 gal. drums	.88	[illegible]
Super RPM Delo Sp. SAE 30 } 55 gal. drums	.788	[illegible]
Super RPM Delo Special SAE 20 } 55 gal. drums		
Socal S olvent, No.25, 55 gal. Drums	.79	Gal
RPM Delo Supercharged 3-30 Lube Oil,55 Gal.Drums	1.0[illegible]	Gal
Chev. M/M Oil, IGH9, 55 gal. drums	1.017	Gal
Standard Thinner, No.350, 55 gal. Drums	.528	Gal
RPM M/Serv Gear Lube 90, 35 lb. containers	7.53	Can
RPM M/S Gearl Lube 140, 415 lb. drums	.20	lb.
Chevron Plastic Cement, 5 gal. cans	7.72	Can
Chevron Starting Fluid, 12 oz. cans to case	1.85	case
Chevron Grease, Heavy Duty, 120 lbs. to drum	44.25	Drm.

* Indicates Tank Truck Delivery - Cheaper
Indicates customer Tank Truck Delivery.



WALKER-MOODY
HALF A CENTURY OF RESPONSIBLE SERVICE TO HAWAII
Engineers • Contractors
Builders
CONSTRUCTION COMPANY, LTD.
2927 MOKUMOA STREET ★ TELEPHONE 893-781
HONOLULU, HAWAII

November 20, 1964

Mr. Raymond Turnbull
Pacific Coconut Processing Co.
8530 Wilshire Blvd.
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

We estimate that a 50' x 150' pier similar in construction to the one we constructed for Van Camp would cost in the neighborhood of $90,000.00.

Walter Lum and Associates, Structural Civil, Engineers and Soil Engineers, would design the pier using the data and experience we have accumulated and also their own on site investigation for $5,000.00.

We would suggest that you engage them as design engineer, and if our joint design/cost control efforts result in our being able to offer you a firm quotation within the above budget estimate, that you contract the work to our firm.

We are hopeful that we will be able to discuss this project with you on your next trip to Hawaii.

Aloha,

WALKER-MOODY CONSTRUCTION CO., LTD.

By ______________________
Ross W. Moody

RWM/es
c.c. Samoa Construction

SPECIFICATIONS FOR WELDED STORAGE TANKS

CAPACITY 35,000 Barrel SPECIFICATIONS: API-650

DIAMETER 80'0" HEIGHT 40'0"

ITEM	TYPE or MARK	MATERIAL	THICKNESS	TYPE of JOINT
BOTTOM	Flat	A-283-C	1/4"	Lap Weld
SHELL	RING NO. 1	A-283-C	0.454"	Butt Weld
	2	A-283-C	0.361"	Butt Weld
	3	A-283-C	0.268"	Butt Weld
	4	A-283-C	0.250"	Butt Weld
	5	A-283-C	0.250"	Butt Weld
	6			
	7			
ROOF				
	Cone	A-283-C	3/16"	Lap Weld

TOP ANGLE SIZE: 3" x 3" x 3/8"

FITTINGS:

NO.	SIZE	DESCRIPTION	NO.	SIZE	DESCRIPTION
1	20"	Shell Manhole	2	8"	Shell Nozzle
1	20"	Roof Manhole	1	8"	Roof Nozzle

ACCESSORIES:

One	Spiral Stairway			
One	Gager's Platform			

CHICAGO BRIDGE & IRON COMPANY

EQUIVALENT SECTIONS MAY BE USED S.P. EST. NO. 15943 DATE 11/30/64

FORM 8A 42

TU-090

SPECIFICATIONS FOR WELDED STORAGE TANKS

CAPACITY 10,000-Barrel SPECIFICATIONS: API 650

DIAMETER 42'6" HEIGHT 40'0"

ITEM	TYPE or MARK	MATERIAL	THICKNESS	TYPE of JOINT
BOTTOM	Flat	A-283-C	1/4"	Lap Weld
SHELL	RING NO. 1	A-283-C	0.241"	Butt Weld
	2	A-283-C	0.192"	Butt Weld
	3	A-283-C	0.1875"	Butt Weld
	4	A-283-C	0.1875"	Butt Weld
	5	A-283-C	0.1875"	Butt Weld
	6			
	7			
ROOF				
	Cone	A-283-C	3/16"	Lap Weld

TOP ANGLE SIZE:

FITTINGS:

NO.	SIZE	DESCRIPTION	NO.	SIZE	DESCRIPTION
1	20"	Shell Manhole	2	8"	Shell Nozzle
1	20"	Roof Manhole	1	8"	Roof Nozzle

ACCESSORIES:

One	Spiral Stairway			
One	Gager's Platform			

CHICAGO BRIDGE & IRON COMPANY

EQUIVALENT SECTIONS MAY BE USED S.P. EST. NO. 15940 DATE 11/30/64

FORM 8A 42

TU 091

SPECIFICATIONS FOR WELDED STORAGE TANKS

CAPACITY 20,000-Barrel SPECIFICATIONS: API 650

DIAMETER 60'0" HEIGHT 40'0"

ITEM	TYPE or MARK	MATERIAL	THICKNESS	TYPE of JOINT
BOTTOM	Flat	A-283-C	1/4"	Lap Weld
SHELL	RING NO. 1	A-283-C	0.341"	Butt Weld
	2	A-283-C	0.271"	Butt Weld
	3	A-283-C	0.250"	Butt Weld
	4	A-283-C	0.250"	Butt Weld
	5	A-283-C	0.250"	Butt Weld
	6			
	7			
ROOF	Dome Roof ([illegible])	A-283-C	3/16"	Lap Weld
	Weathermaster Floater	A-283-C	3/16"	Lap Weld

TOP ANGLE SIZE: 2-1/2" x 2-1/2" x 5/16"

FITTINGS:

NO.	SIZE	DESCRIPTION	NO.	SIZE	DESCRIPTION
1	20"	Shell Manhole	2	8"	Shell Nozzle
1	20"	Roof Manhole	2	8"	Roof Nozzle

ACCESSORIES:

One	Spiral Stairway			
One	Gager's Platform			
One	Inside Ladder			

CHICAGO BRIDGE & IRON COMPANY

EQUIVALENT SECTIONS MAY BE USED S.P. EST. NO. 1594A DATE 11/30/64

FORM SA 43

OCEANIC PETROLEUM CORPORATION

REPORT ON EXAMINATION

DECEMBER 31, 1963

GEORGE R. FUNARO & CO.

GEORGE R. FUNARO & CO.
CERTIFIED PUBLIC ACCOUNTANTS
370 LEXINGTON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-8484

R. FUNARO, C. P. A.
BERGMAN, C. P. A.
OHEN, C. P. A.*

May 14, 1964

Board of Directors
Oceanic Petroleum Corporation
Panama City, Panama

Gentlemen:

The fiscal year of Oceanic Petroleum Corporation ended on November 30, 1963, for which period the annual report had been previously submitted.

This report covers the twelve month period - January 1, 1963 to December 31, 1963.

George R. Funaro & Co

OCEANIC PETROLEUM CORPORATION

BALANCE SHEET

DECEMBER 31, 1963

ASSETS

Current Assets		
Cash in Banks		$ 112,480.72
Accounts Receivable		1,984,145.35
Other Receivables		116,617.70
TOTAL CURRENT ASSETS		$2,213,243.77
Accounts with Affiliated Companies		
Summit Industrial Corporation (Panama)	$1,832,992.00	
U.S. Summit Corporation (Panama)	178,428.00	
Oceanic Process Corporation	51,612.37	
U.S. Summit Corporation	230,000.00	
Peninsula Petroleum Corporation	75,832.93	2,418,862.74
Investment - [illegible] Asphalt Mfg. Co.		242,130.74
Loans Receivable		319,762.80
TOTAL ASSETS		$5,194,000.05

BEST COPY AVAILABLE

OCEANIC PETROLEUM CORPORATION

BALANCE SHEET

DECEMBER 31, 1963

LIABILITIES

Accounts Payable	$2,206,336.30
Accrued Expenses	19,369.93
Loans Payable	22,000.00
TOTAL LIABILITIES	$2,247,906.23

CAPITAL

Capital Stock		$ 1,000.00	
Surplus			
Balance	$2,300,406.11		
Net Profit for the Year - January 1, 1963 to December 31, 1963	644,687.71	2,945,093.82	
TOTAL CAPITAL			2,946,093.82
TOTAL LIABILITIES AND CAPITAL			$5,194,000.05

TU-36

BEST COPY AVAILABLE

OCEANIC PETROLEUM CORPORATION

STATEMENT OF PROFIT AND LOSS

JANUARY 1, 1963 TO DECEMBER 31, 1963

Sales		$8,946,688.65
Cost of Sales		
Purchases	$6,415,544.54	
Charter Costs	1,455,552.22	
Other Costs	194,383.69	
Financing Charges	104,314.77	
COST OF GOODS SOLD		8,169,795.22
GROSS PROFIT		$ 776,893.43
Commissions Earned		45,660.88
TOTAL INCOME		$ 822,554.31
Expenses		
Consulting and Service Fees	$ 153,825.00	
Traveling, Office and Miscellaneous	24,041.60	
TOTAL EXPENSES		177,866.60
NET PROFIT		$ 644,687.71

037

FORM 898 1-60 5M
PRINTED IN U.S.A.

CONSUMER

~~UNION OIL COMPANY OF CALIFORNIA~~
PRODUCTS CONTRACT

THIS CONTRACT, made , 19 , between UNION OIL COMPANY OF CALIFORNIA, hereinafter called UNION, and , hereinafter called BUYER;

WITNESSETH:

1. TERM AND QUANTITY: Union agrees to sell and deliver and Buyer agrees to purchase and receive from Union during the period beginning , 19 , and ending , 19 ,

such quantities of petroleum products specified herein as Buyer may order for use at Buyer's plant at , but in no event less than the minimum quantities specified, and not to exceed, except at Union's option, the maximum quantities specified. The products purchased hereunder shall not be resold, or otherwise disposed of by Buyer.

PRODUCTS	UNIT	MINIMUM (Per Contract Year)	MAXIMUM

2. GRADE: Products shall be Union's regular commercial grades generally offered to Union's customers for similar use and sale at a time and place of delivery. Union reserves the right to change or discontinue, from time to time, any such brands or grades.

3. PRICE: Buyer shall pay Union for each delivery Union's applicable list price as posted by Union at time and for the place and for the same method of delivery.

THE PROVISIONS OF PARAGRAPHS NUMBERED 4 TO 11, INCLUSIVE, ON THE REVERSE SIDE HEREOF ARE A PART OF THIS CONTRACT.

IN WITNESS WHEREOF, the parties hereto have executed this Contract.

UNION OIL COMPANY OF CALIFORNIA

By____________________

____
BUYER

By____________________

---

4. DELIVERY: Union shall deliver said products on Buyer's order by
F.O.B. Buyer's receiving facilities
Union shall make deliveries with reasonable promptness upon receipt of order, but will not be required to make deliveries outside of business hours or on Sundays or holidays. Deliveries to be in fairly even monthly quantities, provided, however, that Union shall have the option of making deliveries at its convenience and keeping Buyer's storage filled to capacity.

5. BARREL DEPOSIT: Buyer shall deposit with Union, Six Dollars ($6.00) for each returnable iron barrel (RIB) in which products are delivered hereunder at the time the purchase price of the products becomes due. Such barrels shall remain the property of Union and Union will return the deposit, without interest, for each barrel returned by Buyer in good condition complete with bungs to Union's plant from which delivery was made within one hundred and twenty (120) days from date of delivery. Union shall retain the deposit for each barrel not so returned as the agreed value thereof and title thereto shall pass to Buyer. Nonreturnable barrels (NRB) are included in the price of the product and become Buyer's property at time of delivery.

6. PAYMENT: The purchase price of products delivered hereunder shall be paid in lawful money of the United States without discount at time of delivery, or upon such other terms as Union may from time to time require. If Buyer shall fail to make any payment when due, such failure shall, at Union's option, be deemed a breach of the entire contract and Union may suspend deliveries hereunder until such payment has been made or may terminate this contract. Nothing herein contained shall limit Union's remedies in the event of a breach.

7. TAXES: The amount of any tax, excise or charge now or hereafter imposed on Union by any Governmental authority upon, incident to, or as a result of the manufacture, storage, withdrawal from storage, transportation, distribution, sale or handling of the products delivered hereunder or measured by the proceeds of such distribution or sale shall, unless it is specified herein that such tax is included in the prices stated, be added thereto and be paid on demand by Buyer to Union.

8. LIABILITIES: The obligations of the parties to deliver and receive products hereunder shall be suspended and excused if Union is prevented from or delayed in producing, manufacturing, transporting or delivering in its normal manner any product hereunder or the materials from which such product is manufactured, because of acts of God, earthquake, fire, flood or the elements, malicious mischief, riots, strikes, lockouts, boycotts, picketing, labor disturbances, war; compliance with any directive, order or regulation of any governmental authority or representative thereof acting under claim or color of authority; loss or shortage of any product or of any part of Union's own or customary transportation or delivery facilities, or for any reason beyond Union's or Buyer's reasonable control, whether or not similar to the foregoing. Whenever such causes in Union's judgment require restriction of deliveries, Union reserves the right in its discretion to restrict deliveries to Buyer without liability, whether or not delivering to others.

9. BREACH OF CONTRACT: Time is of the essence hereof. In the event of a breach of any of the provisions of this contract, it may be forthwith terminated at the option of the party not in default. The waiver of any breach shall not be deemed to be a waiver of any other or subsequent breach of the same or other provisions hereof.

10. ENTIRE CONTRACT: This contract shall terminate and supersede, as of the commencement date hereof, all prior contracts between the parties hereto covering the sale and delivery of said products for the use and sale herein specified. This contract covers the entire agreement of the parties, and no employee, agent or representative of Union has authority to change or modify its terms, and there are no inducements, promises, representations or warranties affecting it.

11. ASSIGNMENT: This contract shall not be assignable by Buyer or by operation of law without Union's prior written consent, but otherwise shall be binding upon and shall inure to the benefit of the parties, their representatives, successors and assigns.

Platt's OILGRAM Price Service - New York Edition - August 3, 1965 Page 8-A Vol. 43 No. 148

CARIBBEAN, MIDDLE EAST & FAR EAST REFINED PRODUCTS PRICES

	Creole Amuay	Esso Aruba	Creole Caripito	Shell Cardon	Shell Curacao	Sinclair Puerto la Cruz	Shell Pulau Bukom	Esso Sungei Gerong	Mobil Sungei Gerong
Avgas Grade 115/145	[illegible]	15.5	- - -	15.5	15.5	- - -	15.7	- - -	- - -
Avgas Grade 100/130	[illegible]	14.2	- - -	14.2	14.2	- - -	15.4	15.2	15.2
Avgas Grade 80/87	- - -	12.3	- - -	- - -	12.2	- - -	13.4	13.2	- - -
Turbine Fuel A-1 (-58F)	- - -	8.9	- - -	8.9	8.9	- - -	10.1	9.9	9.9
100 Oct Premium	- - -	11.2	- - -	11.2	11.2	- - -	- - -	- - -	- - -
98 Oct Premium	- - -	- - -	- - -	10.4	10.4	- - -	- - -	- - -	- - -
97 Oct Premium	- - -	10.1	- - -	- - -	- - -	- - -	10.0	- - -	- - -
95 Oct Premium	- - -	- - -	- - -	9.7	9.7	- - -	10.5	- - -	- - -
93 Oct Premium	- - -	- - -	- - -	9.1	9.1	- - -	10.1	8.9	9.9
91 Regular	- - -	8.7	- - -	- - -	- - -	- - -	- - -	- - -	- - -
90 Oct Regular	- - -	- - -	- - -	8.4	8.4	- - -	- - -	- - -	- - -
87 Oct Regular	- - -	7.8	- - -	7.8	7.8	- - -	- - -	- - -	- - -
85 Oct Regular	- - -	- - -	- - -	- - -	- - -	- - -	8.3	- - -	- - -
83 Oct Regular	- - -	- - -	- - -	7.1	7.1	7.1	7.9	7.7	7.7
80 Oct Regular	6.8	6.8	6.8	- - -	- - -	- - -	- - -	- - -	- - -
79 Oct	- - -	- - -	- - -	- - -	- - -	- - -	- - -	7.3	7.3
Tractor Vap. Oil	- - -	- - -	- - -	- - -	- - -	- - -	[illegible]	- - -	- - -
Illuminating Kerosine	- - -	8.9	- - -	- - -	- - -	- - -	- - -	9.3	9.3
Kerosine	- - -	- - -	- - -	8.7	8.7	- - -	[illegible]	- - -	- - -
Stove Oil	- - -	7.3	- - -	- - -	- - -	- - -	- - -	- - -	- - -
No. 2 Fuel	6.3	6.3	- - -	6.3	6.3	6.5	- - -	- - -	- - -
52 Cetane Minimum	- - -	- - -	- - -	6.7	6.7	- - -	[illegible]	- - -	- - -
53-57 d.i. (Shell 50 cet. min.)	6.6	6.6	- - -	6.6	6.6	- - -	8	7.8	7.3
48-52 d.i. (Shell 45 cet. min.)	6.5	6.5	6.5	6.5	6.5	6.5	7.3	- - -	- - -
43-47 d.i. (Shell 40 cet. min.)	6.4	6.4	6.4	6.4	6.4	- - -	- - -	- - -	- - -
Industrial Diesel	- - -	- - -	- - -	- - -	- - -	- - -	$3.20	$3.10	[illegible]
Marine Diesel	- - -	- - -	- - -	- - -	- - -	- - -	$3.35	- - -	- - -
Virgin Gas Oil	6.9**	- - -	- - -	- - -	- - -	$2.50	- - -	- - -	- - -
Medium Fuel Oil	- - -	- - -	- - -	- - -	- - -	- - -	$2.00	$1.80	$1.80
No. 4 Fuel	- - -	$2.24	$2.24	- - -	- - -	- - -	- - -	- - -	- - -
25 vis. (Max.) Fuel Oil	- - -	$2.13	$2.13	- - -	- - -	- - -	- - -	- - -	- - -
100 vis. (Max.) Fuel Oil	$2.03	$2.03	$2.03	- - -	- - -	- - -	- - -	- - -	- - -
Bunker C Fuel	$2.00	$2.00	$2.00	$2.00*	$2.00	$2.00	- - -	- - -	- - -
Bunker C (Max. 1.75% Sulfur)	- - -	- - -	$2.10	- - -	- - -	- - -	- - -	- - -	- - -
Cutback Asphalt (RS-2/MC-2)	6.7	- - -	- - -	- - -	- - -	- - -	- - -	- - -	- - -

*Shell also quotes $1.97 at San Lorenzo. **Virgin vacuum.

	BP Abadan	Esso Abadan	Mobil Abadan	Shell Abadan	Caltex Ras Tanura	Caltex (U.K.) Bahrain	Esso Ras Tanura	Mobil Ras Tanura
Avgas Grade 115/145	15.9	15.9	15.9	15.9	- - -	- - -	- - -	15.1
Avgas Grade 100/130	14.3	14.5	14.8	14.8	- - -	- - -	- - -	14.8
Avgas Grade 91/98	- - -	- - -	13.2	- - -	- - -	- - -	- - -	- - -
Avgas Grade 73 Clear	12.8	- - -	12.8	12.8	- - -	- - -	- - -	- - -
Turbine Fuel, 1 (-58F)	9.2	9.2	9.2	9.2	9.4	9.4	9.4	9.4
95 Oct	9.7	9.8	9.8	9.8	10	10	9.8	10
93 Oct	9.2	9.2	9.4	9.2	9.6	9.6	9.5	9.5
90 Oct	8.4	8.4	8.8	8.4	8.8	8.8	8.8	8.3
87 Oct	- - -	- - -	8	- - -	8.2	- - -	8	8.2
85 Oct	- - -	- - -	- - -	- - -	7.8	- - -	- - -	- - -
84 Oct	- - -	- - -	[illegible]	- - -	- - -	- - -	- - -	- - -
83 Oct	7.2	7	7.2	7	7.4	7.4	7.2	7.4
[illegible] Oct.	6.8	6.8	6.3	6.6	7	7	6.3	7
[illegible] Vap. Oil	8.3	8.3	8.3	8.3	- - -	8.5	- - -	- - -
[illegible]	[illegible]	8.4	8.8	8.8	8.8	8.3	8.8	8.4
[illegible]	[illegible]	[illegible]	9.2	9.2	- - -	- - -	- - -	- - -
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	- - -	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	7	7	7
[illegible] Max	[illegible]	[illegible]	8.3	8.2	[illegible]	[illegible]	[illegible]	$3.00
Industrial Diesel	$2.80	$2.80	$2.80	$2.80	- - -	[illegible]	[illegible]	$3.05
Marine Diesel	$2.75	$2.75	$2.75	$2.75	$3.05	$3.05	$3.05	$3.05
Bunker C Fuel	$1.55	$1.55	$1.55	$1.55*	$1.65	$1.65	$1.65	$1.65

*Industrial Fuel

GULF COAST - CARGOES, [illegible]

100 Oct Premium (b)14.25-13.25 [illegible] 53-57 Diesel Index [illegible] .325-.675

TU-100

APPENDIX I - AREA AND PRICE ANALYSIS

Deft's EXHIBIT DDX 155
for identification
GLORIA TEPPER, N.P.
Oct 1 19 70

Area Analysis

Let us analyse the area, which I shall divide into three categories in more relevant terms than geographical limits.

A. Area with existing ocean terminals. This area may be conveniently labelled a "2¢ per gallon freight cost" area. This does not imply that this low freight cost is always reflected in the selling price. It simply means that deliveries are made by T-2 type and bigger tankers. Socal supplies their terminals in Papeete and Pago with their own tankers, usually the Lombardi, and because of their privileged position in these two markets, they figure their freight cost on the basis of 3¢ to 6¢ per gallon. Both Shell and Mobil use their house flag tankers, as well as chartered vessels, e.g. the "Brali", in this area.

MONOPOLY

I. New Guinea* 1. Port Moresby (Mobil)
2. Rabaul (Mobil)
3. Lae (Shell)
4. Madang (Shell)

II. Fiji* 1. Suva (Shell, Mobil, BP, aviation only)
2. Vuda Pt. Lautoka

III. New Caledonia*
1. Ducos) (Shell, Mobil, Total - industrial & aviation only)
2. Noumea)

IV. Western Samoa
1. Apia (joint terminal Shell, Mobil, BP - aviation only)

V. American Samoa
1. Pago Pago (Socal)

IV. French Polynesia
1. Papeete, Tahiti (Socal, Mobil, Total aviation only)

* Diesel supplied to private industries and other sales in outport areas are lifted from these terminals. For example, diesel requirements of Commonwealth New Guinea Timbers, Ltd. at Bulolo come from Lae; for CSR-Nausori,& Nukualofa, Tonga from Suva, etc.

Price Structure

The Price structure in Area A can be summed up in the following tables with variations in some of the local areas.

Mobil

	Diesel	Kerosene	Motor Gasoline	
FOB Palembang**	9.3 ¢	10.6 ¢	10.5 ¢	per US Gallon
Freight	2.1	1.98	1.81	"
Insurance	0.07	0.07	0.07	"
CIF	11.47¢	12.65¢	12.40¢	"
Mobil's area markup	2.75¢	3.25¢	3.25¢	"
Terminal throughput charge	1.50	2.00	2.00	"
Price ex terminal*	15.72¢	16.90¢	16.65¢	"

**This is price charged by Mobil Australia Ltd. whose cost price paid to Mobil refinery is understood to be low enough to allow a fair mark-up. This seems to be borne out by the fact that on the occasions when they draw supplies from their Altona refinery their FOB prices did not differ much.

* To this price are added local wholesale and retail mark-ups.

Shell

Although Shell's prices, wholesale and retail, parallel mobil's throughout the area, they seem to figure their ex terminal prices slightly differently. This may be accounted for by the fact that Shell, in certain areas, market through distributors. Shell base their FOB pipeline prices on Platts to which are added a lump sum called "distribution cost" (presumed to include freight, insurance, amotization, etc.) The prices and mark-up are set by their various subsidiaries such as Shell Co. (Pacific Islands) Ltd. in Fiji, or N. V. Koninklijke Nederlandoche in New Guinea, Shell Oil Company of Australia, etc.

Socal

I think that you are thoroughly familiar with Socal's prices in Tahiti. They may have to revise their cost/sales price structure as soon as Mobil's Papeete terminal becomes fully operative. It is sufficient to recap their prices practiced up to present both at Papeete and Pago.

1¢ bbl - to deck - 3/10th of 1d

	FOB Richmond, El Segundo or Honolulu		CIF Pango
11.7 Motor Gasoline	12.31¢	5.94	18.25¢
Kerosene	13.06	5.94	19.0
.0535 Diesel	9.14	6.16	15.3-
.66 2.356 Light bunker fuel	6.667	4.119	10.786-
100/130 Av. gas	20.81	5.94	26.75
115/145 Av. gas	22.01	5.94	27.95

1.19d gal to haul [illegible]-LA

B. Area with some sort of "outport terminals". This area may be labelled "8¢ per gallon freight cost area". In this outport terminal area, Mobil's supplies are ferried by a 720 ton tanker called the "Pacific Enterprise" which was the former Dutch built "M/V Harold". It has 10 cargo tanks equipped with loading and discharge pumps and drum filling equipment on deck. Based at Lae, it carries a Chinese crew and Mobil's Marine Department charges Aust £ 250-0-0 per day to their distribution and sales department. Shell, for example, supplied their Nukualofa installation by barge with supplies ~~drum~~ from their Suva terminal.

- I. New Guinea
  - 1. Wewak
  - 2. Samarai
  - 3. Kavieng, New Ireland
- II. Gilbert Island
  - 1. Tarawa
- III. Solomon Island*
  - 1. Honiara
- IV. New Hebrides
  - 1. Santo
  - 2. Vila
- V. Tonga Island
  - 1. Nukualofa**
- VI. Island of Nauru***
- VII. Island of Makatea

*Also installations of private industries at Gizo, Munda and Yandina in the Solomons.

**Supplied by barge from Suva on arrangement with Tongan government, freight Suva/Tonga figured @ $27. per long ton. Here is an area where a profitable arrangement may be worked out with Prince Tungi to supply his requirements by direct tanker deliveries.

*** Phosphate mines - requirements delivered in 600/1800 ton lots, on contract basis; e.g., Socal's delivered price Makatea for diesel @ 15¢ per gallon plus demurrage if any.

The whole B Area holds good promise even though the volume in each territory is small. It has good cushions in long margin, high freight charges and the aggregate volume is quite repectable.

C. Drum economy area.

- I. Cook Islands - Rarotonga
- II. Wallis - Futuna
- III. Ellice Group
- IV. All outer islands or so called outports of all the Island groups.

We need not elaborate on the peculiarities of this area except to say that petroleum marketing is still tied to general merchandise trading. Some ingenuity and a little make-shift will get us a long way.

General Comments

This entire area is dominated by Shell and Mobil (position inherited from Stanvac). There are inroads made recently by Socal at Papeete and Pago; Total (via throughput from Mobil) in New Caledonia and Tahiti; BP in aviation sales only and Ampol in New Guinea.

Against the seemingly well entrenched position of Shell and Mobil, we can exploit some of their glaring weknesses. In area A most places are still wide open, where, given equal costs, the obtaining of our share of the market is a matter of diligence. In areas B and C, a successful operation throughout can be envisaged and in many places we may even end up being the logical suppliers to our competitors.

APPENDIX II - SOME LESS ACCESSIBLE STATISTICS

PETROLEUM IMPORTS STATISTICS - RABAUL, NEW GUINEA

	to 30/6/60	to 30/6/61	to 30/6/62
Aviation Gasoline	754,662 gals.	76,790 gals.	255,123 gals.
Motor Gasoline	2,109,737 "	1,732,844 gals.	1,509,941 "
Jet Fuel	660 "	92,118 "	585 "
Kerosene	475,360 "	477,651 "	384,009 "
White Spirit	7,126 "	8,471 "	8,360 "
Diesel Oil and Other Fuel Oils	2,340,959 "	3,376,923 "	2,712,845 "

The only distributors of petroleum products in Rabaul are Shell Company of Australia Limited and Mobil Oil Australia Limited.

SOURCES:	INDONESIA	USA	AUST.	SINGAPORE	MIDDLE EAST	PERU
Aviation Gasoline						
1960	99%	1%				
1961	97	2	1%			
1962	81½	½	1	17%		
Motor Gasoline						
1960	99½		½			
1961	100					
1962	98½		½	1		
Jet Fuel						
1960	88		12			
1961	100					
1962	100					
Kerosend						
1960	99		1			
1961	99		1			
1962	88		4		8%	
White Spirit						
1960	66		34			
1961	36		64			
1962	5		95			
Diesel Oil and Other Fuel Oils						
1960	98		2			
1961	96½		½	3		
1962	70		2	5	21	2%

PETROLEUM IMPORTS STATISTICS - APIA, WESTERN SAMOA

Three Oil companies represented here.

BRITISH PETROLEUM PTY. LIMITED,
MOBIL OIL (AUST.) PTY. LIMITED,
SHELL COMPANY (PACIFIC ISLANDS) LIMITED.

The first company named only distributes aviation gasoline, whilst the latter two companies share bulk installations for motor gasoline, kerosend and diesel fuel and are actively engaged in selling petroleum products. There are no supplies of Jet Fuel or bunker fuel kept as there is no demand for same.

	1960	1961	1962
AVIATION GASOLINE	RECORDS NOT KEPT AS DUTY NOT PAID		
MOTOR GASOLINE	962,045	1,047,160	1,130,998
KEROSENE	285,513	212,058	214,721
DIESEL FUEL	229,437	300,305	248,372

With regard to the source of supply this varies, but the bulk of it comes from Borneo and Singapore

PETROLEUM IMPORTS STATISTICS - SUVA, FIJI

MAY, 1962/MAY 1963

Aviation Gasoline	6,000 long tons
Motor Gasoline	21,950 tons
Jet Fuel	24,000 tons
Kerosene	7,000 tons
Diesel Fuel & Bunker Fuel	31,000 tons

The above are the figures for the last 12 months but for the two previous years figures would have been almost identical.

PETROLEUM IMPORTS STATISTICS, - HONIARA, GUADALCANAL

	1960	1961 (Gallons)	1962
Aviation Gasoline	18,920	39,122	35,512
Motor Gasoline	217,338	379,406	335,435
Jet Fuel	Includëd in aviation gas, no separate figures available.		
Kerosene	142,526	165,592	149,313
Diesel Oil	482,901	760,200	839,150
Bunker Oil	Nil	Nil	Nil

SOURCES:

		1961	1962
Aviation Gasoline	Indonesia	38,500	35,200
	U.S.A.	270	92
	Australia	352	220
		39,122	35,512
Motor Gasoline			
	Indonesia	355,766	312,002
	Australia	29,560	3,728
	U.S.A.	11,000	
	Iran	2,200	
	North Borneo	800	
	Papua, New Guinea		19,699
	U.K.		6
		379,406	335,435
Kerosene			
	Indonesia	125,903	137,473
	Australia	36,736	6,340
	Iran	2,238	
	North Borneo	660	-
	Papua/New Guinea		5,500
		165,592	149,313
Diesel Oil			
	Indonesia	710,253	797,634
	Australia	37,361	16,814
	North Borneo	12,011	
	U.K.	575	176
	Papua/New Guinea		24,526
		760,200	839,150

In the British Solomon Islands, two bulk installations are maintained, one owned by Shell Co. (P.I.) Ltd., the other by Mobiloil (Austr.) Ltd.

PETROLEUM IMPORTS STATISTICS, PORT VILA AND SANTOS NEW HEBRIDES

	1960	1961	1962	TOTAL
Aviation Gasoline	110 T.	393 T.	450 T.	953 T.
Motor Gasoline	2530 T.	2475 T.	1680 T.	6685 T.
Jet Fuel	-	-	-	-
Kerosene	930 T.	982 T.	1238 T.	3150 T.
Diesel Oil	3646 T.	4880 T.	3930 T.	12456 T.
Bunker Oil	-	-	-	-
Total ...	7216 T.	8370 T.	7298 T.	23244 T.

Two suppliers/distributors MOBIL OIL AUSTRALIA Pty Ltd. and Societe des Petroles SHELL des Iles Francaises du Pacifique.

Source of supply: either New Caledonia, Australia and also New Guinea.

Unoco (Hong Kong) Limited

AN OVERSEAS SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Managing Director
JAMES H. McGEE

408-9 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS: "PETROLEUM HONGKONG"

No. JHM/5/588

D[illegible]'s EXHIBIT DDY 156
for identification
GLORIA TEPPER, N.P.
Oct 1 1970

May 25, 1964

Mr. Raymond C. Turnbull
President
Pacific Coconut Processing Corp.
8530 Wilshire Boulevard, Suite 309
Beverley Hills, Calif.

Dear Ray:

We have just received telegraphic advice from British Petroleum that due to small volume potential and the problems of transporting refined oil products from either Singapore or Australia they are not interested in marketing in American Samoa. This would seem to close the book at least temporarily on our plans to find a competitive source of supply so that we could enter this market. I realize of course that this is a great personal disappointment to you as it is to me and we all sincerely hopedthat by solving the problems we have had in the past with the Singapore Refinery we could be in the position to competitively ship products to Samoa.

I have not yet written Governor Lee and I would be happy to do so but would first like your advice whether you would prefer to write him or whether you think it proper that I also write and explain the decision of the British Petroleum Company.

I am taking the liberty of sending a carbon copy of this letter to Mr. Nero because he is, of course, as interested as we are in the proposal and he may want to contact you at some future date.

Very truly yours,

JHM:gt
c.c. Mr. Wm. C. Nero, LA

Unoco (Hong Kong) Limited

AN OVERSEAS SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Managing Director
JAMES H. McGEE

408-9 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS: "PETROLEUM HONGKONG"

No. JHM/5/625

May 29, 1964

Deft's EXHIBIT DDX 157
for identification
GLORIA TEPPER, N.P.
Oct 1 1970

Mr. Raymond C. Turnbull
President
Pacific Coconut Processing Corp.
8530 Wilshire Boulevard, Suite 309
Beverley Hills, California

Dear Ray:

Mr. Cadwell asked me if I had told you officially that British Petroleum were proposing to buy the Singapore Refinery. I do not recall whether I have told you this in a letter or over the long distance phone and, for that reason, I am enclosing a photostatic copy of a press release on this subject which you may or may not have seen. It appears that the negotiation for the purchase of the refinery by BP has been approved by all parties concerned.

Mr. Cadwell is going to discuss with the officials of BP the information you were kind enough to give me by overseas telephone the day before yesterday and, I am taking the liberty of writing BP, suggesting they contact you personally in the event this recent indication that Pan American would give the new supplier their jet fuel requirements in Pago Pago might possibly increase the volume sufficiently for them to be interested.

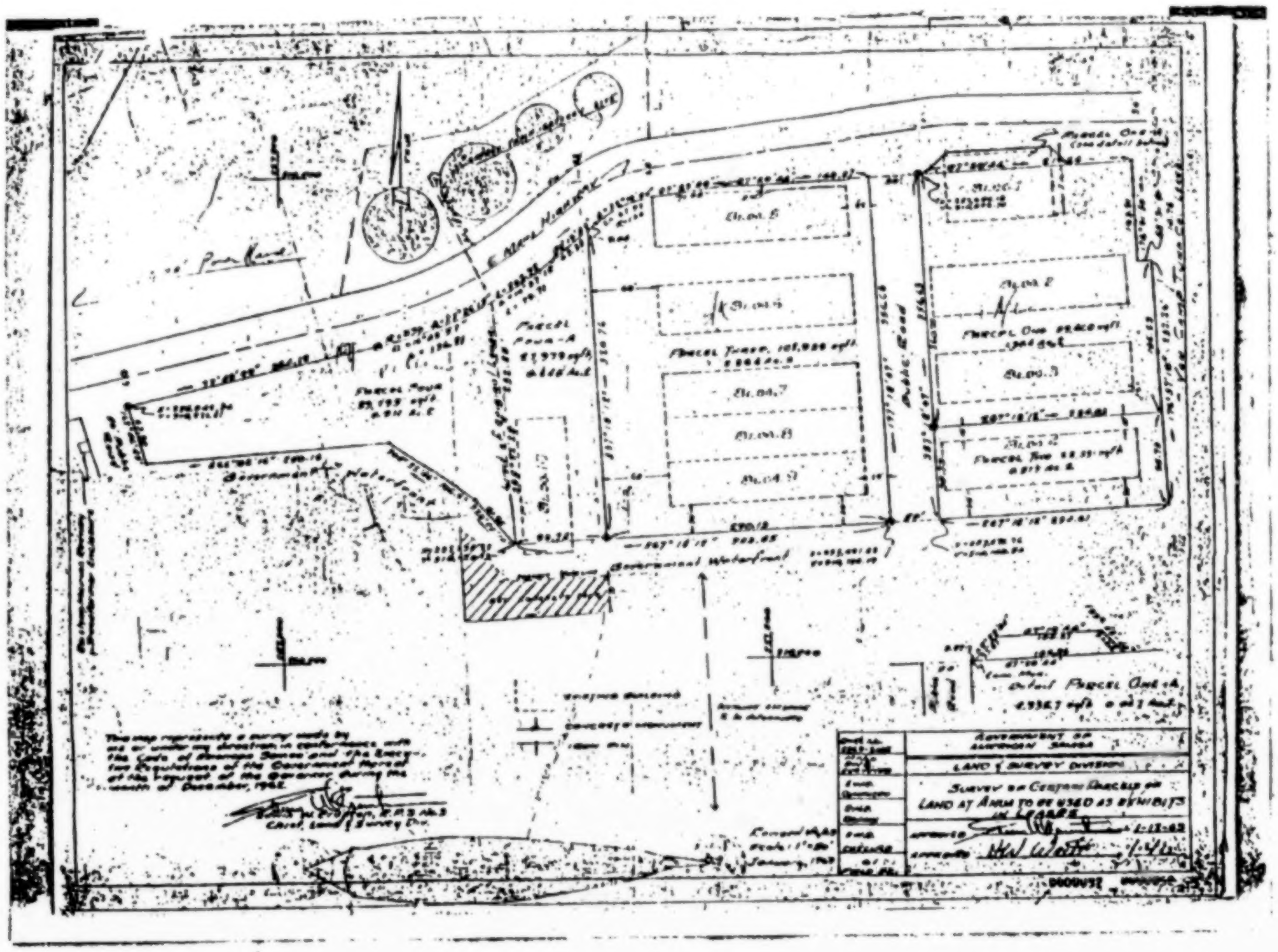
Thank you again Ray for the enthusiasm and support you have given us on this program and I sincerely hope that we have the pleasure of seeing you in Hongkong in the near future.

Very truly yours,

JHM:gt

Encl. 1

2. New Documents: Not Produced Before


Government Waterfront
Public Road
Parcel Four-A
Parcel Three
Parcel One
Parcel Two
Bldg. 2
Bldg. 3
Bldg. 5
Bldg. 6
Bldg. 7
Bldg. 8
Bldg. 9
Bldg. 10
Outfall Parcel One-A
Government of American Samoa
Land & Survey Division
Survey on Certain Parcels on Land at Aua to be used as Exhibits in Leases
Chief, Land & Survey Div.

February 5, 1963

Mr. H.W. Sanders
Union Oil Center
Los Angeles 17, California

Dear Mr. Sanders:

In view of our discussion last week and the proposed new Union Oil bulk plant in Pago Pago, I thought you might be interested in the enclosed clippings.

Best and warmest regards,

Sincerely,

REESE H. TAYLOR, JR.

Enclosures

SDY
~~PLAINTIFF~~ EXHIB.
NO. 101 FOR IDENT.
MARK GALANTY, C.S.R. #3019

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION
TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

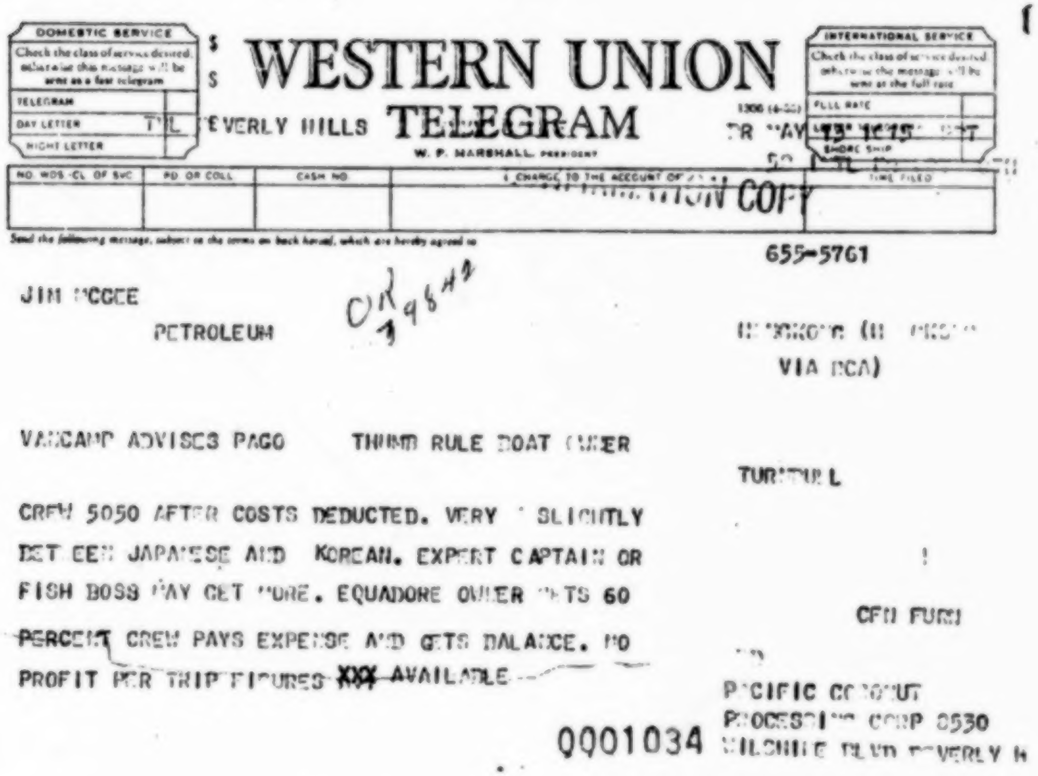
SYMBOLS
DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

709P PDT MAY 12 63 LA233 OCA83
O-SFB348 (MR192/MH13/UF5 JE87) 44 PD INTL FR O SF HONGKONG VIA
MACKAY 13 1026
TURNBULL PACIFIC COCONUT PROCESSING CORP
8530 WILSHIRE BLVD SUITE 309 BEVERLEYHILLSCALIF
Q51 CANU ADVISE PROFIT EACH FISHING VESSEL MAKES PER TRIP STOP
WOULD LIKE TO KNOW WHAT PERCENTAGE CREW GETS AND WHAT PERCENTAGE
OWNER OF VESSEL RECEIVES CABLE ADDRESS PETROLEUM HONGKONG LETTER
FOLLOWING MCGEE

8530 Q51
(05).

~~PLAINTIFF~~ EXHIB.
SDX NO. ~~FF8~~ 115 FOR IDENT.
MARK GALANTY, C.S.R. #3019



DOMESTIC SERVICE

TELEGRAM
DAY LETTER
NIGHT LETTER

WESTERN UNION TELEGRAM

W. P. MARSHALL, PRESIDENT

INTERNATIONAL SERVICE

FULL RATE
SHORE SHIP

BEVERLY HILLS

TR MAY 13 1015

NO. WDS.-CL. OF SVC.	PD. OR COLL.	CASH NO.	CHARGE TO THE ACCOUNT OF	TIME FILED
			CONFIRMATION COPY	

Send the following message, subject to the terms on back hereof, which are hereby agreed to

655-5761

JIM MCGEE
PETROLEUM

OK 9842

HONGKONG (B [illegible]
VIA RCA)

VANCAMP ADVISES PAGO THUMB RULE BOAT OWNER CREW 5050 AFTER COSTS DEDUCTED. VERY SLIGHTLY BETWEEN JAPANESE AND KOREAN. EXPERT CAPTAIN OR FISH BOSS MAY GET MORE. EQUADORE OWNER GETS 60 PERCENT CREW PAYS EXPENSE AND GETS BALANCE. NO PROFIT PER TRIP FIGURES ~~XXX~~ AVAILABLE

TURNBULL

CFN FURN

PACIFIC COCONUT
PROCESSING CORP 8530
WILSHIRE BLVD BEVERLY H

0001034

CABLE SENT 5/13/63

JIM MC GEE
PETROLEUM
HONG KONG VIA RCA

VAN CAMP ADVISES PAGO THUMB RULE BOAT OWNER CREW FIFTY FIFTY AFTER COSTS DEDUCTED. VARIES SLIGHTLY BETWEEN JAPANESE AND KOREANS. EXPERT CAPTAIN OR FISH BOSS MAY GET MORE. EQUADOR OWNER GETS 60 PERCENT CREW PAYS EXPENSE AND GETS BALANCE. NO PROFIT PER TRIP FIGURES AVAILABLE.

TURNBULL

Def SOX 0001178
J M Valdez, N.P.
11-24-75

Unoco Limited
(Incorporated in Liechtenstein)

THE OVERSEAS MARKETING SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Sales Manager
J. H. McGEE

408-9 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS: "PETROLEUM HONGKONG"

Letter No.JHM/5/35

May 14, 1963

Mr. Raymond C. Turnbull
President
Pacific Coconut Processing Corp.
8530 Wilshire Blvd., Suite 309
Beverly Hills, California

Dear Ray,

Thank you very much for the prompt reply to my cable yesterday, and thank you also for the very lengthy letter full of the enthusiasm and detailed information that has been so very helpful in putting our proposal together for management review.

As you no doubt know by now, the Union Oil management are reviewing the proposal in Los Angeles. We are in almost daily contact with them on various details. In addition, Mr. F. K. Cadwell, our President, is in Los Angeles this week and I am sure that he is discussing this subject with the Executive Committee.

I appreciated you clarifying what could have been a misunderstanding as a result of Ron Pritchard's helpful letter which was in answer to some questions I had asked prior to leaving Pago Pago. I thought I understood Ron's explanation correctly, but I appreciated your confirmation.

We are certainly aware of the necessity for a final decision as soon as possible not only because of the complexity of filling the area adjacent to your leasehold property but also because we assured the Governor that this is not a subject that we would treat lightly.

I know that Unoco would be extremely interested in discussing with you the details of the purchase of the Bank of America and as soon as our Vice President, Mr. William C. Nero returns from Korea,

Deft SDX 0001179
J M Valdez, N.P.

Mr. Turnbull - 2 - May 14, 1963

I will give him as much of the detail as I can and we can then write to you for additional information after we establish to what extent we would be interested.

I just got the pictures back yesterday and am having some prints made which I think you will enjoy.

Thank you again for keeping me so well informed and would you please let me know when you plan on returning to Pago Pago.

Very truly yours,

Jim

JHM:nm
cc: Mr. F. K. Cadwell

Deft SDX 0001180
J M Valdez, N.P.
11-24-75

June 14, 1963

Mr. J.H. McGee
Unoco, Ltd.
408-9 Takshinga House
Hong Kong

Dear Jim:

Thank you for the cable sent to Pago. I let the Governor read it and made all the appropriate explanations on the time element. An interesting aside is that the complete power of Pago has only a 5-hour fuel capacity. If anything should happen to the tank trucks, at the end of 5 hours there would be no power in Samoa.

I talked to Craig today and told him that the Governor expected to leave Pago on June 25th for a 45-day leave. He didn't volunteer any information and I just gave him the general rundown of Samoa happenings.

I did button up Palmyra Island and now will go ahead on this project. Talked to the senior vice president of Sheraton in Boston and he seems quite delighted with the prospect of leaning on the financing for 70%. The 30% balance will be further reduced by the architect and contractor taking their profit in equity, the remainder of the financing being incomplete at this time. The total 30% equals $1,298,160. I do have something to trade on in obtaining the balance, and that is the gambling. If you see your Chinese friend again ask him if this would brighten up the picture. They can not only have equity for their money, but can direct the gambling profits toward their own particular payout.

Have you ever heard of Dato Loke Wan Tho, S.I.M.K., P.M.N, Chairman of the Cathay Organization? I understand that as an individual he is loaded and that he represents a tremendous hui. They have been sprinkling their money out in the Pacific evidently smelling a coming rat in the Orient. His son-in-law, Wesley Barrett, runs the Cathay Hotels (Fiji, Ltd.) in Suva, Fiji. I once talked to Barrett about Tahiti, but that idea died because the French hate Chinese. This Palmyra caper should have some intrigue in it for foreigners in that they can carve pieces out of the tourist industry that frequents Hawaii and get dollars at the same time. Keep your ears open for anybody who might be interested in this deal.

I am sending in my entry blank for the Macao Grand Prix to be held November 16th. I propose to bring a Ferrari and a new Shelby Cobra and hope between these two cars my sister and I can dominate every event except the Formula Junior class. Is there any reason why my car shouldn't be #76 in the usual Union colors? Along this promotional line, do you have any tankers perhaps that make the run from California to Hong Kong

---

that might hold two race cars as deck cargo? One of the races is run for teams that are sponsored from Hong Kong. The Grand Prix, of course, is open to the fastest cars and this is the plum I am after. From the speed of the cars that I am bringing, my sister and I ought to make it a one-two affair provided that concrete buildings on either side aren't too attractive. I hope you are still there in November so I can meet your wife.

In the meantime, hurry up on this Pago caper so you can be my guest in the new diggings that will be completed on or about July 1st.

Regards,

RAYMOND C. TURNBULL,
President

FORM GAS-118-C
(REV. 9/4/58)

GOVERNMENT OF AMERICAN SAMOA
COMMUNICATIONS DIVISION

RADIOGRAM

VPD/NR31 [illegible] CX22 5 1031

COCOPAC
PACOPA CAMSAMOA

1324 RAY TURNBULL LEE AND FAMILY ARRIVED YESTERDAY HE AND CADWELL MEETING TODAY WILL KEEP YOU ADVISED KINDEST REGARDS

MCGEE.

Copy s[illegible]

[illegible]	CWO	TOR	TOD	DATE	D/T GR.
	[illegible]			[illegible]	

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24

Deft SDX 0001183
11-24-75

Unoco Limited
(Incorporated in Liechtenstein)

AN OVERSEAS SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

Director Product Sales
JAMES H. McGEE

408-9 TAKSHING HOUSE, HONG KONG
TELEPHONE 28009
CABLE ADDRESS "PETROLEUM HONGKONG"

No. JHM/10/985

October 30, 1963

Mr. Raymond C. Turnbull
President
Pacific Coconut Processing Corp.
8530 Wilshire Boulevard, Suite 309
Beverley Hills, California

Dear Ray:

I received a very nice letter from Governor Lee a few days ago saying that he fully understood our current position and expressed his appreciation for efforts we have been extending to plan a marketing operation in American Samoa.

You mentioned in one of your earlier letters that you might possibly be in Hong Kong during the month of November.

Molly and I are leaving on November 4 and will spend sometime in Honolulu and then will be coming to Los Angeles the latter part of November.

We will be sorry if we missed you in Hong Kong but I am hoping that I have the opportunity of seeing you in Los Angeles later this year

We still include American Samoa in our plans for the future and I am hoping by the time that I see you that we will have either a definite decision or at least some encouraging news.

I hope the processing plant is going well and that by 1964 you will be in operations.

Thank you again for your letter.

Very truly yours,

Jim

JHM:gt

DILLINGHAM CORPORATION
Ala Moana Building · Honolulu 14, Hawaii · Cable: DILCORP

November 20, 1963

Mr. Raymond Turnbull
8530 Wilshire Blvd.
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Your invitation that we consider participation in your land development proposal at American Samoa has been studied by our company and it has been agreed that we are definitely interested in prospecting this project.

With reference to your telephone call on November 18th, we feel that in order to plan an efficient investigation of the site, we will need more preliminary information on the planned development if such is available. Could you advise us on the following points:

1. In general, what is the time-frame within which the planned construction should be scheduled?
2. Does the project envision a port development as well as reclamation? If so, what would be the size and draft of ships, the extent of wharves, and the requirement for dock equipment such as cranes, etc.?
3. What would be the nature of cargoes which will be handled?

We visualize the sequence of our activities generally falling into three phases: first would be preliminary prospecting, the cost of which would be borne by the individual partners of the proposed joint venture, each according to his own requirements, with the objective of determining the feasibility; second, the engineering survey and design for dredging, reclamation and water front construction, which would be to the account of the joint venture; and third, the actual implementation of the plan by the joint venture on a cost basis to be determined by negotiation leading from the first two phases.

Between now and your return to Honolulu, we propose to examine the project with the use of such hydrographic and other charts as may be available here. We would like to recommend that you plan to stay a day or two here in order that we may explore more fully plans for finance, nature of the industries contemplated for the site, as well as the present extent of leasing intent as an indicator of the possible value of the land and facilities to be constructed.

I am not sure as of this moment that one of our men with suitable qualifications will be available on the specific date of November 30 to accompany you; however, you may be sure we will follow through at the earliest appropriate time.

Sincerely,

DILLINGHAM CORPORATION

D. M. Schmuck

DMS/mp
cc: Mr. Ralph Kiewit, Jr.

November 20, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Mr. Schmuck:

I am enclosing herewith HR 2073 presently being acted upon. This Bill, in effect, would cover the lands that we would develop in Samoa. There is no question of it being passed within the next 60 days, as every one concerned has already agreed to the terms therein.

I thought it might be interesting for your file.

I will be checking into the Royal Hawaiian late in the evening of the 29th. I hope that your engineer can accompany me to Samoa on the Pan American plane leaving Honolulu at 12:30 A.M., Sunday, December 1st.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

November 21, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Mr. Schmuck:

I had advised you earlier that I was negotiating with a local company to put a refinery on the new land that would be created at Samoa. For a period of eight months, I have also been negotiating with the wholly owned subsidiary of Union Oil Company, Unoco, Ltd., to build a bulk plant in Pago Harbor on my present lease. This negotiation had dragged while Unoco and the parent company Union Oil checked out the feasibility of hauling finished products either from Singapore or California. It had been resolved that the trip from California would be too costly, and Unoco was interested in proceeding by hauling the product from Singapore, subject to their marketing arrangements with that facility. Jim McCue, second in command of the Unoco operation in Hong Kong, called me from Honolulu on the 19th, and advised that they would have great interest in marketing the product of a new refinery that would be built in Samoa.

I will meet with both the Unoco people and the Fletcher Oil Company on my return from Pago on the 9th of December to firm up this combination. The refinery will require 35 acres of the new land, and the Union Oil terminal will require 38 acres.

The Chairman of the Board of Jasper Corporation and his entourage of timber experts will join me in Samoa on or about January 15th to survey the picture for their exotic plywood veneer plant. I have in the past furnished them with samples of the woods available, and I have sent them logs which they have converted to veneer plywood. They will utilize all the lumber available in the Samoan group, using both American Samoa and Western Samoa woods. I propose to furnish them with the logs from the Island of Savaii, and Prince Tungi of Tonga, is willing to furnish the barges and tugs necessary to transport the logs from the islands to the Jasper plant. Their requirement in acreage is, strangely enough, 27 acres. The combination of these three companies seems to cover the reclamation that we have discussed. Obviously, we could use more land, and I intend to seek more area in the same bay from Governor Lee.

I am enclosing herewith the Dun & Bradstreet report on Jasper Corporation. They guarantee the full market for all of the product, and they are willing to either take the whole picture or joint venture the project. The Bank of America in Los Angeles have advised me that if we should desire to joint venture with Jasper, they are interested in lending us all of the money required from our side.

Mr. Donald Schmuck
Page -2-

November 21, 1963

There are many other companies that have an educated interest in setting up shop in Samoa for tax purposes. Maybe your engineer will see other possibilities of land reclamation. You are no doubt aware of the fifty per centum rule of the Tariff Act of 1930, in which a foreign product can be processed in an American territory qualifying it as an American product, providing that the sale price of the end product is a minimum of 50% more than the cost of the foreign raw product. This would make Samoa desirable from the standpoint of textile manufacturers, or for any other manufacturer who would be able to convert Australian products for the American market.

The foregoing is just some of the background that makes Samoa more desirable than most people realize.

I am also enclosing herewith a copy of the last letter from the Jasper Corporation and a copy of the latest Industrial Incentive Act.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosures

November 22, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Don:

I had already written when your November 20th letter arrived. Answering your direct questions, please be advised as follows:

1. The project should be commenced as soon as its feasibility is determined. As I have mentioned previously, Union Oil negotiations can be concluded within 45 days. Jasper Corporation can commit by the middle of January, and the Fletcher Oil Company can commit with Union Oil. I would see to it that your company would also construct the refinery and the Union Oil Company terminal. While a long period of time is involved between agreements and construction, the land reclamation period should fill that hiatus.

2. The project should include the opening of the entrance to accomodate ships that carry freight presently to Pago - General Steam's Thor I and Thorsisle, and Matson's Ventura and Sierra - I don't know their drafts. There should be enough of a turning basin, using tugs, to swing their bows to sea, making a starboard side landing to the wharves. That crude map I left with you depicts a general plan of docking. Requirements for dock equipment could be determined early by the lessees.

I don't know the difference between land reclamation and port development, unless the latter represents the inclusion of public or governmental accomodations. It may be that government funds can be allocated to a fuller development than that envisioned by us at the present time.

3. The inbound cargoes would be logs barged in for Jasper Corporation and crude oil tankers from Indonesia. The end products of Jasper would be veneer plywood heading for the States, and smaller tankers and lighters would be carrying finished petroleum products to Tonga, Western Samoa and the Cook Islands.

I shall not comment on the balance of your letter until I meet with Ralph Kiewit tomorrow.

Yours very truly,

RAYMOND C. TURNBULL,
President

Copy
Kiewit
10/10

November 27, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Mr. Schmuck:

Ralph Kiewit and I met yesterday to discuss your letter of November 20, 1963, and more specifically, the three phases you desire:

Our proposal to Mr. Wheaton, without being detailed, embodied the following:

1. Cost borne by us under preliminary prospects would be limited to paying for the preliminary trip of Dillingham's engineer to make an on-site inspection, and to make available to such engineer quarters and transportation in American Samoa, as well as all required maps and information compiled by the Government of American Samoa.

2. Engineering, survey and design for dredging, reclamation and waterfront construction, and all costs accrued to Phase 2, would be advanced by Dillingham to the Joint Venture and repaid by the Joint Venture to Dillingham from the first lease proceeds received.

3. Actual costs of the implementation of the plan by the Joint Venture would be advanced by Dillingham to the Joint Venture and repaid by the Joint Venture to Dillingham from the first lease proceeds received.

4. It is understood that Dillingham's investment in the Joint Venture be conditioned on firm commitments on the leaseholds in an amount sufficient to repay all costs resulting from the implementation of the plans for the sale thereof. The Balance of the proceeds derived from leaseholds, over and above the costs, would be divided equally between the Joint Venturers.

In lieu of expending large sums of money in a business neither Mr. Kiewit nor I are familiar with, we would undertake to supply lessees, approved by you, that would firmly commit prior to the commencement of your referred to Phase 2.

I will have conversations with Governor H. Rex Lee next week, and will further detail to you his attitude towards this project. Any available information or engineering reports in the Government file will be furnished you on my return.

Yours very truly,

RAYMOND C. TURNBULL,
President

Copy Hume 12/10

DILLINGHAM CORPORATION
Ala Moana Building · Honolulu 14, Hawaii · Cable: DILCORP

November 29, 1963

Mr. Raymond C. Turnbull
Royal Hawaiian Hotel
Honolulu, Hawaii

Dear Mr. Turnbull:

Because of the time element, we are not prepared to send a representative to Samoa with you on Sunday; however, based on the information in your recent letters, we have assigned a member of our engineer staff the task of making a rough layout for a minimum port facility and producing a "round house" estimate of the cost.

We have all the charts locally available on Samoan hydrography, but all they indicate in the lagoon is "shallow" water. For estimating fill requirements, we will assume an average water depth of 5 feet in the reclamation area. This can be easily modified following an engineering site survey - or possibly from the engineering reports in Samoa which you stated would be made available on your return.

At this point, the most important thing is to determine the feasibility as developed from the cost and in terms of the possible revenue anticipated from the land. We would like to explore these areas with you more fully, possibly the next time you pass through Hawaii if you can so arrange your schedule.

Our thoughts now are that our first trip down would probably be by a representative qualified to participate in general discussions at all levels as they affect our participation in the project - possibly myself. The technical aspects of the job, then, would be prospected at the appropriate time by a team of specialists equipped to take soundings and borings and evaluate current and wave action as they affect engineering design for marine developments.

Your letter of November 27th arrived today and your summary of the practical arrangements for getting this project on the road appear to me to be quite sensible. I will try to get together with you this weekend - if not, we will await your return from Samoa with the greatest of interest.

Best regards and Aloha,

DILLINGHAM CORPORATION

D. H. Schmuck

DMS/mp

Copy Hume 12/11

December 10, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3463
Honolulu 1, Hawaii

Dear Mr. Schmuck:

I received your November 29th letter at the Royal Hawaiian Hotel, and then went on down to take up this land reclamation with Governor Lee.

The Government of American Samoa has a test rig that would be suitable for coring to determine the thickness of the coral in the lagoon. Their drag-lining operation in the same lagoon has indicated at least a minimum of 30 feet of coral without showing any lava. The map I left with you indicates the spots that were drag-lined in the past. There is in existence a geologic chart showing the rock formations in different parts of the island.

The land area at Tafuna is lava with lensing of coral, such coral formations being indicated for the lagoon area. Mr. Ed Brunton, who is head surveyor for the Government, had nothing in his file that would help your investigation, nor was there any other information available to help in the determination.

Governor Lee is most enthusiastic about this project, his interest being in the establishment of new industries for Samoa. He is familiar with the Jasper Corporation's activities and interests, and towards this end, is making available to me on or about January 15th, a 136 foot former oceanograph ship, the "Hugh M. Smith", which is enroute to Pago from Los Angeles. This ship will be used at that time to take the Chairman of the Board of Jasper and his timber experts on a survey trip to the Island of Savaii to determine the feasibility of a logging enterprise to furnish raw product to their plant at Tafuna lagoon.

I talked to Mr. Clausen, Public Works Director for Western Samoa. He indicated that they were going to dredge Asau Harbor on Savaii, and then move over to create a harbor at Apia, Western Samoa. I proposed that there could be possible savings in time and money if they dealt with you people rather than Merritt, Chapman and Scott out of New York. It was my observation, after a general discussion with him, that he planned to be in touch with you people very shortly. I had understood before that your people had made a survey of their harbor development, but that the price involved was too much for their government to carry. It now appears that the United Nations has a finger in the pie - you might want to follow up on renewing negotiations.

Deft SDX 0001185
J McValdez, N.P.
11-24-75

Mr. Donald Schmuck
Dillingham Corporation
Page -2-
December 10, 1963

I am enclosing herewith a squib out of the Western Samoa paper and a copy of a map of the harbor in Savaii that they plan to dredge. Evidently, they have great plans to develop the Asau Harbor area.

I plan to get some indication from Union Oil on their facility in American Samoa by tomorrow, and will pass along the information as soon as received.

If you are the engineer for the initial project and could possibly arrange a trip sometime around January 15th, maybe you could go along on this trip to Savaii and possibly drum up some other business for your company.

I have a feel out to Prince Tungi, of Tonga, regarding possible dredging work to create a large harbor from that shallow area on Tonga Tapu. This is all just exploratory talk in order to sweeten the pie for your dredging operation south of the equator.

Another prospect in Samoa itself could conceivably be in the harbor at Pago Pago. I know Governor Lee is interested in creating as much land as possible in the bay area, as well as creating more land for the hotel site on Goat Island. You can weigh this feasibility on your trip to Pago,

I am going to inform the Union Oil Company that if the construction of a refinery is feasible, you people be given the opportunity to construct it. Again, if the refinery is feasible, I am going to undertake to obtain governmental financing at 4% interest and own a large chunk of the refinery itself.

The governmental climate for the land reclamation project is good. We have the educated interest of good lessees and there seems to be only one point that could sink the ship at the present time...whether the bottom of the Lagoon is coral or lava.

I talked to Mr. Thrapp, Director of Public Works for G.A.S., regarding the availability of one of the two test rigs. I requested the rig that would be able to take cores. He informed me they are going to drill some test holes in the area that will have a one million barrel capacity water tank constructed, but that the rig would be made available to us when required. Also available to us is a steel barge that has a fixed crane aboard. Conceivably, the rig could be placed aboard this barge for purposes of coring the Lagoon bottom. I believe many of the services and the equipment of G.A.S. will be made available to us at no cost.

Strangely enough, the only concern the Governor had in relation to the construction of a refinery was air pollution that might contaminate or make obnoxious the downwind areas already proposed for recreational purposes. After my talks with Union Oil, I am supposed to inform Governor Lee of the outcome so that he may take up the proposal with Secretary Udall. Since this operation concerns the refining of foreign crude oil, he would require some advice from experts in the Department of the Interior who are charged with the responsibility under the law with regard to foreign and

Mr. Donald Schmuck
Dillingham Corporation
Page -3-
December 10, 1963

domestic oil production. Frankly, I believe this excuse disguises his exhilaration over the prospect, and that his intent would be to take a deep bow in Washington for having attracted to Samoa a business that would enhance the strategic position, if any, of Samoa. Obviously, a refinery would be extremely attractive to G.A.S. in terms of getting cheaper fuel oil and other petroleum products. Standard Oil, as you know, have a virtual monopoly at the present time, the government having to pay 19¢ per gallon for diesel fuel. A refinery would attract the tramp trade for fueling purposes, and all the other attendant trickle down benefits.

Reference is made to the Bill H.R. 2073 that I sent to you previously. This Bill was passed by the Congress two days before Kennedy left for Dallas. In the Bill it required specific locations to be determined. The Congress knocked out that provision so the submerged lands deal is no longer a problem. Incidently, this delighted the Governor as regards our land reclamation project.

I will keep the information coming as fast as I receive it.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosures (2)

Copy to [illegible]

WALKER - MOODY

Engineers • Contractors
Builders

CONSTRUCTION COMPANY, LTD.
2927 MOKUMOA STREET ★ TELEPHONE 893-781
HONOLULU, HAWAII

January 10, 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Blvd.
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Per your request we have made a preliminary estimate for filling the submerged land in front of your office at Pago Pago for the construction of a dock in this same location adequate for the discharge of coconuts from Tonga's new carrier.

Our recommendations are based upon our knowledge of the situation acquired while constructing dock facilities for Van Camp and Star-Kist in the adjacent area and from specific data of the site just received from our people there.

Our thinking at this time indicates that the area should be filled with coral or weathered rock available in the area. The height of fill above mean sea level would be approximately 8 feet. Some settlement should be expected. At the face of this filled area, a dock approximately 50' wide x 200' long would be constructed. It would be of reinforced concrete construction resting on pre-stressed concrete piles and would be independent of the fill except for lateral thrust. It would be designed for moderate pier liveloads of approximately 300 psf. The depth of water at its force would be approximately 30 feet.

We estimate that the cost of the fill and dock would be in the neighborhood of $400,000.00. You would reclaim approximately 1.5 acres of new land in the process.

As you know we are thoroughly familiar with the design and construction of this type of facility in Samoa. We would welcome the opportunity to discuss the project with you in more details.

Sincerely,
WALKER-MOODY CONSTRUCTION CO., LTD.

By Ross W. Moody
Ross W. Moody

RWM/es

~~Plaintiff~~ Exhib.
No. 125 FOR IDENT.
MARK GALANTY, C.S.R. #2019

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION
TELEGRAM
W. P. MARSHALL, PRESIDENT

SYMBOLS
DL = Day Letter
NL = Night Letter
LT = International Letter Telegram

1201 (4-60)

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

LDT53LT GOVT NL PD TDL PWS PAGOPAGO AMERICANSAMOA JAN 10

RAYMOND C TURNBULL , Care Taylor
8530 WILSHIRE BLVD SUITE 309 LOSA (DY)

UNCLAS WILL BE PASSING THROUGH LOS ANGELES APPROXIMATELY JANUARY 16 ENROUTE WASHINGTON. WILL CALL YOU FOR ARRANGEMENT MEETING EITHER IN LOS ANGELES OR WASHINGTON ON MCGEE PROPOSALS

GOVERNOR AMERICAN SAMOA PAGO PAGO AMERICANSAMOA

Rec'd 1/13/64 10:30 P

~~Plaintiff~~ Exh.
No. 124 FOR IDENT.
MARK GALANTY, C.S.R. #2019

SDT

THE COMPANY WILL APPRECIATE SUGGESTIONS FROM ITS PATRONS CONCERNING ITS SERVICE

FORM GAS-118-C
(REV. 8/4/53)

phoned (491) 1-13-64 12:45 KAY

will pick up

GOVERNMENT OF AMERICAN SAMOA
COMMUNICATIONS DIVISION
RADIOGRAM

NPM/NR006/14 BEVERLY HILLS CALIF CK31 VIA RCA 13 210P

PACCO
PAGOPAGO

NO WORD TONGA FUNDS STOP GOVERNOR LEE CABLED THAT HE WILL CALL HERE 16TH WHILE PASSING THROUGH EN ROUTE WASHINGTON REGARDING MEETING HERE OR WASHINGTON MCGEE PROPOSALS

COCOPAC

RELAYS	CWO	TOR	TOD	DATE	D/T GR.
		[illegible]		JAN 13 '64	

Dept SDX 0001188
J.M. Valdez, M.P.
1-24-75

FORM GAS-118-C
(REV. 8/4/53)

491

GOVERNMENT OF AMERICAN SAMOA
COMMUNICATIONS DIVISION
RADIOGRAM

NPM/NR17 LOS ANGELES CALIF CK38 VIA MRT 15 445P

PACCO
PAGOPAGO(SAMOA)

TURNBULL SINGAPORE NEGOTIATIONS PROGRESSING SATISFACTORILY STOP TO CONCLUDE REQUIRES SESSIONS IN JAPAN AND USA STOP WE ESTIMATE MARCH 1ST AS DATE WE CAN MAKE FINAL DECISION ON SAMOAN PROPOSAL REGARDS TO GOVERNOR LEE

JIM.

RELAYS	CWO	TOR	TOD	DATE	D/T GR.
		[illegible]		16 JAN '64	

January 22, 1964

Mr. Ross W. Moody
Walker-Moody Construction Company, Ltd.
2927 Mokumoa Street
Honolulu, Hawaii

Dear Ross:

Thank you for the estimate on the dock at our Pago plant. The price that you quote appears to be quite high when equated with the 35'x 330' dock that you built for Van Camp. You may have lost your shirt on that job, but could there be a difference of $330,000 for approximately the same size dock?

I am having some soundings taken to determine the exact depth of the area in question in order to get a cross-section. I will send you a copy of the soundings as soon as I receive them.

I wish you would recheck your figures on the price. You did a hell of a lot of work and put in a beautiful dock for Van Camp for $110,000. I will send a copy of this letter to the Union Oil Company people. If you have a detailed breakdown on this to substantiate your costs I would appreciate it.

I am glad that you know where there is plenty of coral and weathered rock fill in the immediate area - you must have it camouflaged.

General Schmuck, from the Dillingham Corporation, was with me on the last trip, and he was impressed with the dock you had built for Van Camp.

Thanks a lot for the estimate, and I would appreciate a substantiation of the $400,000 price.

Yours very truly,

RAYMOND C. TURNBULL,
President

PLAINTIFF

[illegible] GALANTY

---

copy
Dillingham
1/24/64

WALKER - MOODY

Engineers • Contractors
Builders

CONSTRUCTION COMPANY, LTD.
2927 MOKUMOA STREET ★ TELEPHONE 892-781
HONOLULU, HAWAII

January 28, 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Thank you for your letter of January 22nd. The following comments are in reference to your request for more information concerning our estimate of $400,000.00 for your proposed dock and land reclamation project:

1. We estimate $225,000.00 for the fill in place. As this land is leased from the Government of American Samoa and its improvement would be to their eventual benefits we assumed their cooperation in our being able to remove the required material from nearby coral reefs or from other government controlled land. There is also a good shale rock at Aua which might be available.

2. We have estimated $175,000 for the pier. The Van Camp contract was finally completed at $148,230.00. The overall uniform loading on this structure was a minimum of 125 lbs. In some areas 250 lbs were allowed depending in adjacent bays. At any rate the design criteria was based "fish loads" and small Japanese fishing boats. We had a difficult time convincing the Governor and the G. A. S. Architect that this light loading should be allowed. I am sure that if any large commercial oilers or freighters were to use your dock its design would have to be based on more conventional live (500 PSF and up) and impact loads.

The writer will leave for Samoa on February 8th and will probably [illegible] there a week. I will take a look into the situation and will be able to make more accurate recommendations to you on my return. Please let me know if there is anything specific concerning tonnage and draft of vessels at the facility also if I have your permission to discuss the matter in a preliminary manner with the Public Works Director and Architect concerning their design requirements.

Sincerely,

WALKER-MOODY CONSTRUCTION CO., LTD.

By Ross Moody
Ross W. Moody

~~PLAINTIFF~~ EXHIBIT
5-5- NO. 37 FOR IDENT.
MARK GALANTY, C.S.R. #3019

RWM/es

January 29, 1964

Mr. Ross W. Moody
Walker-Moody Construction Company, Ltd.
2927 Mokumoa Street
Honolulu, Hawaii

Dear Ross:

Thank you for the breakdown. Please go ahead and discuss the matter with Harry Thrapp. I don't think its necessary to discuss it with Weiderholt, but thats up to you.

The tonnage of Prince Tungi's ship will approximate 2000-2600 tons and will not draw over 25 feet of water. I believe that this will be the largest ship that will tie to the dock, in that the present plans call for hauling in fuel from the Tafuna lagoon by the use of dracona. Any other ships using it would be of the fishing boat size.

I do not want any illusions of grandeur to rule in the dock design insofar as governmental suggestions are concerned. If they come up with an impossible spec, then tell them to put in their own damn pier.

It would be a simple matter for us to put a buoy on the outside of the dock and take a strain on the outboard side of the ship during any loading or unloading operations. This would relieve any stress caused by surge.

While in Samoa I requested from Aspinall the authority to have Ed Brunton take the soundings in order to draw a cross-section. I was informed by telegraph that Aspinall refused the request. I contacted Governor Lee in Washington and he approved the project, and I in turn wired Aspinall that Lee had approved. Maybe by the time you get there Brunton will have the figures ready - or maybe I'm just dreaming. Ask Brunton about it anyway.

Yours very truly,

RAYMOND C. TURNBULL,
President

WALKER-MOODY

Engineers • Contractors
Builders

CONSTRUCTION COMPANY, LTD.
2927 MOKUMOA STREET ★ TELEPHONE 892-781
HONOLULU, HAWAII

February 25, 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

While in Samoa I had the opportunity to discuss the pier and land reclamation project you propose.

As you probably know G. A. S. is negotiating for the rental of a dredge to fill the area necessary for the new hotel. If this materializes, it would probably be wise to use the same operation to reclaim your area.

We are still interested in designing and constructing a pier adequate for your needs that is within your budget and still satisfactory to the G. A. S. Perhaps on your next trip to Samoa we could meet with you in Honolulu and discuss the matter in detail.

Sincerely,

WALKER-MOODY CONSTRUCTION CO., LTD.

By Ross Moody
Ross W. Moody

RWM/es

~~PLAINTIFF~~ EXHIBIT
SDX NO. 139 FOR IDENT.
[illegible]

February 28, 1964

MEMORANDUM

To: Ray Turnbull

From: Don Schmuck

Subject: Samoan Dredging

1. DREDGING

We have made several studies of methods to provide docking facilities at the proposed Tafuna Bay harbor. These rough estimates are an extension to the land reclamation costs quoted in my memorandum of February 17th. All costs are contingent upon confirmation of actual terrain and hydrographic conditions by engineering survey.

The least expensive, useful docking facility would consist of four dolphins plus a short pier section of timber adequate for cranes and trucks. With an alongside water depth of 35 feet and an elevation of 8 feet, such a dock would cost in the neighborhood of $200,000. Three of these docks would appear desirable to make use of the entire 85.5 acres.

At the other end of the scale from the rudimentary facility outlined above, would be prestressed concrete docks capable of supporting gantry cranes, each dock 400 feet long, and each costing about $500,000.

2. KAISER'S DREDGE

We have conducted a preliminary survey of the KAISER dredging plant and feel that we must run a detailed mechanical check before we can inform you whether this plant can be in operating condition in time to be loaded on 15 March. However, the first report indicates that it still has a lot of dredging life in it and appears to be in fair shape.

We will continue a detailed inspection of the plant and wire our recommendations to you in Samoa during the week. If our report is favorable, I would suggest that you stay in Honolulu long enough on your return to put together an agreement.

The crew for this plant would be 10 or 12 men including 3 or 4 Americans. However, to get full use of the dredge, around-the-clock operations are necessary - which means three 8-hour shifts with this many men in each shift. All this was contemplated in our estimate of monthly operating cost.

---

3. With regard to dredging and fill for the Rainmaker site in Pago Pago, with the present lack of information, the only practical way to handle this work is to negotiate an agreement on a cost plus basis, to be replaced by a guaranteed lump sum contract when the job can be properly estimated.

HAWAIIAN DREDGING & CONSTRUCTION CO.

D. M. Schmuck

DMS/mp

April 1, 1964

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor:

Jasper Corporation advises they will join me in Honolulu for the April 12th flight to Samoa. I hope you will be in residence during their sojourn.

Our deshelling machine will be inspected by A.R.A. Engineer Schobinger either the 6th or 8th (next week) and I trust this will be the successful end of the longest loan application on record.

I had given a set of your hotel plans to Tom Nakao for the purpose of bidding all the concrete work, and I noticed the main building exclusion. Pete told me they weren't ready yet due to not getting a kitchen expert's approval. From my comparison of costs, you will save considerably both in money and despatch by using Tongans.

By now you have received our pretty colored picture of the lagoon. If the deal needs sweetening to get it underway, could you possibly dream up a format acceptable to you so I won't be embarrassed by not having a 20-acre site available for the lumber people?

Heard from Jim McGee and the answer from Union should be forthcoming by April 15th.

I talked to Fuimaono at Star Kist regarding the use of his land for a macadamia plantation. Fuimaono, as you probably know, went to University of Hawaii and is familiar with the macadamia potential. He is enthusiastic, not as an ignorant Samoan, but as a savant. The proposal, as always, has a few "ifs".

If the lumber people set up shop in Samoa, Fuimaono's lumber could be purchased and turned into a product usable in American Samoa. As timber was cut, we would complete clearing with new heavy machinery and start the planting of macadamias. The tree spacing would allow fast cash crops to be planted by the village. In addition, we could plant the same acreage to papaya and set up that crude enzyme collection plant for Adolf's Meat Tenderizer. I'm also having some tests run now to determine the feasibility of canning, freezing or powdering the remaining edible flesh of papaya. We might have another business started in that development. Anyway, Fuimaono's village would prosper from the sale of timber, would have their own land cleared for planting, and would have an interest in the macadamia production. The costs of this enterprise would be carried by a co-venturer of mine from Honolulu. It is my understanding that the proposal should be reduced to writing and tentatively agreed to between parties, and then made subject to your disapproval. I will get an agreement from Fuimaono and submit it your office next trip.

I asked John Samia to draw up some ideas on where a swimming pool should go for the high school. I would like to work out a deal to get a stateside olympic pool constructed so those kids can build a real competitive team for the next South Pacific Games. I talked to the successors of Paddock Pools and they will furnish the filter equipment, plaster and supervision required for a first-class job. I have to find out now whether your gunite equipment is usable, whether you have steel and a digging machine. I thought I'd bug Star Kist, Van Camp and American Can to join us in the operation.

Are any of the capital ships of your present Navy available for the lumber trip to Savaii? I understand your "Hugh M. Smith" has a pine tree growing up the bottom or might as well have.

Yours very truly,

RAYMOND C. TURNBULL,
President

CABLE SENT 5/26/64

ATTORNEY GENERAL
GOVERNMENT OF AMERICAN SAMOA
PAGO PAGO
AMERICAN SAMOA VIA RCA

PRINCE TUNGI AND TOM NAKAO ARRIVING PAGO JUNE 11 CAN YOU ARRANGE VISAS IN PAGO FOR ONE WEEK BUSINESS MEETING HONOLULU STARTING JUNE 15 ADVISE

TURNBULL

Attorney General
Government American Samoa
Pago Pago

Prince Tungi and Tom Nakao
Arriving Pago June 10
Can you arrange visas in
Pago for one week business
meeting Honolulu starting June 15
Advise - Turnbull

June 5, 1964

Mr. Paul Gallien
Asiatic Petroleum Corp.
1 Rockerfeller Plaza
New York City 20, New York

Dear Mr. Gallien:

I am enclosing herewith some statistics pulled out of a survey made by another company desiring to enter the petroleum competition in the South Pacific.

We want some competition to Standard Oil Company of California in American Samoa in diesel, kerosene, motor gasoline, light bunker fuel and aviation gasoline.

I have your C.I.F. prices into Fiji, New Caledonia, Western Samoa and New Guinea. You could compete easily with Socal in all products, and there are other incentives that I would care only to discuss in the event an educated interest was evidenced by your company.

Location of facilities, deep water frontage, our interest in investment, and all other phases can be discussed if there is an initial interest.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

WESTERN UNION
TELEGRAM
W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

SYMBOLS
DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

223P PDT JUN 12 64 LA261 PC280
RSA023 DL PD RS NEW YORK NY 12 338P EDT
RAYMOND C TURNBULL PACIFIC COCONUT PROCESSING
CORP
8530 WILSHIRE BLVD SUITE 309 BEVERLY HILLS CALIF
ON TANKER LOAD OF ABOUT 15,500 LONGTONS CONSISTING 3 OR 4 GRADES
NET CURRENT PRICE CIF PAGO PAGO IN CENTS PER U.S. GALLON FOLLOWS
MOGAS 93 OCTANE 10.80
MOGAS 83 OCTANE 8.50
KEROSENE 11.55
HIGHSPEED DIESEL 53/57 INDES 9.65 → 8.35 Fletcher
INDUSTRIAL DIESEL OR NO 4 FUEL 9.15
BUNKER C FUEL OIL 6.42
EXTRA SHIPPING COST ON 2500 TON TANKER AT LEAST .25 CENTS
PER GALLON HIGHER
SUMMIT J T SHAW

WESTERN UNION
TELEGRAM
W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

SYMBOLS
DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

AIN 15.500 3 4 93 10.80 83 8.50 11.55 53/57 9.65 4 9.15 6.42 2500 .25.
ALSO 4 .

~~PLAINTIFF~~ EXHIB.
SDX NO. 159 FOR IDENT
MARK CALANEY, [illegible]

CABLE SENT 7/16/64

MR. WALKER
SHELL AUSTRALIA
MELBOURNE VIA RCA

CAN YOU MEET ME IN PAGO PAGO WEEK OF JULY 27
TURNBULL

CLASS OF SERVICE
This is a fast message unless its deferred character is indicated by the proper symbol.

WESTERN UNION
TELEGRAM

W. P. MARSHALL, PRESIDENT

SF-1201 (4-60)

SYMBOLS
DL=Day Letter
NL=Night Letter
LT=International Letter Telegram

The filing time shown in the date line on domestic telegrams is LOCAL TIME at point of origin. Time of receipt is LOCAL TIME at point of destination

901A PDT JUL 20 64 LB057
L LLD189 (0 SFD045) INTL FR 0 SF MELBOURNE VIA RCA 48/45 20
1552
TURNBULL PACIFIC COCONUT PROCESSING
(DLR) 655-5761 8530 WILSHIRE BLVD SUITE 309 BEVERLY HILLS
CALIF
YOURS 16/7 REGRET EARLIEST CAN ARRIVE AUGUST 2ND LEAVING AUGUST
4TH ALTERNATIVELY MANAGER AT SUVA CAN VISIT JULY 27TH TO 29TH
STOP PLEASE ADVISE URGENTLY YOUR PREFERENCE
WALKER

16/7 2 4 27 29
(59).

Telephone No.
Telephoned To LM
Time 1030A
By MO To Be MLD

CABLE RECEIVED 7/20/64

R.C. TURNBULL
BEVERLY HILLS, CALIF.

YOURS 16/7 REGRET EARLIEST CAN ARRIVE AUGUST 2 LEAVING AUGUST 4 ALTERNATIVELY MANAGER AT SUVA CAN VISIT JULY 27 TO 29 STOP PLEASE ADVISE URGENTLY YOUR PREFERENCE

WALKER, MELBOURNE AUSTRALIA

~~[illegible]~~ Walker
Shell Melbourne

~~Your Suva manager~~

~~Will meet your Suva manager~~ Your.

Will meet with your Suva manager
July 28.
Turnbull

SDY EXHIBIT 165

CABLE SENT 7/22/64

WALKER
SHELL
MELBOURNE AUSTRALIA VIA RCA

WILL MEET WITH YOUR SUVA MANAGER JULY 28

TURNBULL

SDY EXHIBIT 165

CABLE SENT 7/22/64

GOVERNOR REX LEE
PAGO PAGO
AMERICAN SAMOA VIA RCA

ONE REPRESENTATIVE IN PAGO 27TH OTHER ADVISED CAN'T COMPETE

TURNBULL

PLAINTIFF EXHIB.
NO. 169 FOR IDENT.
MARK GALANTY, C.S.R.

Gov. Lee

one representation [illegible] in Pago 27th – [illegible] other
Advised Can't Compete.
Turnbull

EBP/EMF.

SHELL HOUSE
SUVA.

31st July 1964.

E.B. PITTS.

Dear Ray,

As promised I attach hereto copy of thd Government specifications and prices of petroleum products purchased from Socal.

2. Due to an oversight on our part we did not note that this list failed to set out quantities purchased for the last twelve months, which of course is a most important factor in our assessment. I therefore cabled our Agents, Burns Philp (S.S.) Co. Ltd., asking them to contact you in an endeavour to obtain this information.

3. You will be pleased to know that Jim Marsh arrived home in Suva intact, although mighty sick. He is no longer intact having had is appendix removed yesterday morning, but is progressing satisfactorily after the operation.

4. I would like to thank you on both Jim's and my behalf for your very considerable assistance in paving the way for us and opening many doors that would have taken us a great deal more time to pen without your help.

5. Hoping to renew our acquaintance in the near future.

Yours sincerely,

Brian Pitts.

Mr. Raymond C. Turnbull,
Pacific Coconut Processing Corp.,
8530 Wilshire Bvde.,
Beverley Hills,
California, U.S.A.

SUVA

31st July 1964.

EBP/EMF.

The Government of American Samoa,
PAGO PAGO AMERICAN SAMOA.

Dear Sirs,

General Supply Division.

On Monday 27th July 1964, our Mr. E.B. Pitts and J.B. Marsh had discussions with your Mr. Joe Sareen, following advice from Governor Lee concerning Government purchases of petroleum products.

2. Mr. Sareen was good enough to provide our representatives with product specifications and prices at which these products were purchased from the existing supplier.

3. It was intended, with the agreement of Governor Lee, that this list include quantities purchased for the period July 1963 - June 1964 and it is probable that we did not make ourselves clear to Mr. Sareen that this information formed a vital part in our survey.

4. We therefore cabled our Agents, Messrs Burns Philp (S.S.) Co. Ltd, requesting them to contact you through Mr. Raymond Turnbull, to obtain this information.

5. We would like to take this opportunity of thanking you for the co-operation given by your Government to our representatives.

Yours faithfully,
SHELL COMPANY (PACIFIC ISLANDS) LIMITED

(E.B. PITTS)
District Manager - South West Pacific Area.

N.O.O.
c.c. Mr. R. Turnbull.

August 4, 1964

Mr. Brian Pitts
Shell Company
(Pacific Islands, Ltd.)
Suva, Fiji

Dear Brian:

Thank you for your letter of July 31. Burns-Phelp advised me of your wire requesting the quantities of petroleum products purchased by the government. Within the time left to me in Samoa, the government was unable to furnish this information. I will also write Mr. Screen and request that this information be sent you to follow up your letter to the General Supply Division.

I am sorry Jim was sick, but if he tours the Islands on business, it is much safer to tour without grumbling appendix.

It was a great pleasure meeting both you and Jim, and if there is anything I can do for you please call on me.

Yours very truly,

RAYMOND C. TURNBULL,
President

AIR MAIL

Mr. Raymond C. Turnbull,
Pacific Coconut Processing Corp.,
8530 Wilshire Bvde.,
Beveryley Hills,
California, U.S.A.

IF UNCLAIMED IN 21 DAYS, RETURN TO
SHELL COMPANY (PACIFIC ISLANDS) LIMITED.
BURNS, PHILP (SOUTH SEA) COMPANY LTD., AGENTS
18/16 P.I

August 13, 1964

Mr. John R. Malone
Manager
Business Development Department
Dillingham Corporation
Box 3468
Honolulu, Hawaii 96801

Dear John:

Thank you for your letter of August 7, 1964 regarding Bank of Hawaii financing and matters Samoan. Sorry I missed your call on Friday, however 4:55 your time is 7:55 our time and I left the office at 5:30.

Your last paragraph was unclear to me, but following out the figures and costs of creating 85 acres in Samoa, I come out with the following costs of the total land reclamation which appear to be safe figures:

1. $1,512,000 - 2,800,000 cubic yards of fill @ 54¢/yard
2. $ 60,000 - Mobilization one way dredge
3. $ 30,000 - Insurance one way dredge
4. $ 720,000 - 1200 foot dock @ $600/linear foot

$2,322,000

If Dillingham were to receive the above costs out of first monies and 40% of the above costs, or $728,000, then it would appear to be a fair return on the investment.

I cannot measure a 30% or 40% return on investment capital after taxes not knowing your tax figure. Don Schmuck had previously suggested that a new company, possibly Samoan, be formed to handle this land reclamation project. Lessees acceptable to you would commit themselves to the company. The cost of the project, without embellishment or increased charges against the project, would be drawn out of the company first by Dillingham. When the actual out-of-pocket costs had been recovered by Dillingham, than a further designated percentage would be drawn by Dillingham. The balance would remain in the company.

August 13, 1964

I am assuming that your reference to donating the dredge to the Samoan government would follow the completion of the land reclamation project so as not to become involved in the demobilization and return of the dredge to Honolulu.

I have tried out figures using $75,000 a month operating expenses of the dredge - plus the mobilization, insurance and dock construction costs - and these figures are less than the ones used hereinabove. As a matter of interest, please be advised as follows:

1. Western Samoa, who purchased a brand new small dredge for $200,000 from the East Coast, is producing and depositing 300 yards per hour. Merritt, Chapman & Scott and Tecon Corporation from Dallas are operating the dredge, and their costs of operating at the present time, not counting amortization, mobilization or heavy maintenance, but including the labor and fuel, is running 9¢ per cubic yard.

2. Governor Lee has reclaimed 5-1/4 acres for his hotel site. His costs, including the rip rap, were the equivalent of $1.00 per yard or a total of $90,000 for 90,000 yards. This fill was obtained by the use of a clam shell outside of the bay area and the material was trucked in along with the rip rap which was hauled from 10 miles away.

3. If I obtain written commitments from strong tenants, the land reclamation becomes bankable in that the strength of the proposed tenants will assure bank financing on the work to be performed.

All of the foregoing is projected in order to clarify the potential of this proposed project. The present commitment I have for 30 acres, even at $1.50 per square foot, is only $362,300 shy of the total cost.

I will contact you on my next trip over.

Yours very truly,

RAYMOND C. TURNBULL,
President

PACIFIC COCONUT PROCESSING CORPORATION

H.R.H. PRINCE TUNGI
CHAIRMAN OF THE BOARD
RAYMOND C. TURNBULL
PRESIDENT
S.T. NAKAO
VICE PRESIDENT
WILLIAM B. HAUGHTON
SECRETARY
ROBERT D. WERSHING
TREASURER

EXECUTIVE OFFICES
8530 WILSHIRE BOULEVARD, SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE: OLEANDER 5-5761
GENERAL OFFICE AND PLANT
PAGO PAGO, TUTUILA, AMERICAN SAMOA

October 26, 1964

Ross Moody
Walker-Moody Construction Co, Ltd.
2927 Mokumoa
Honolulu, Hawaii

Dear Ross:

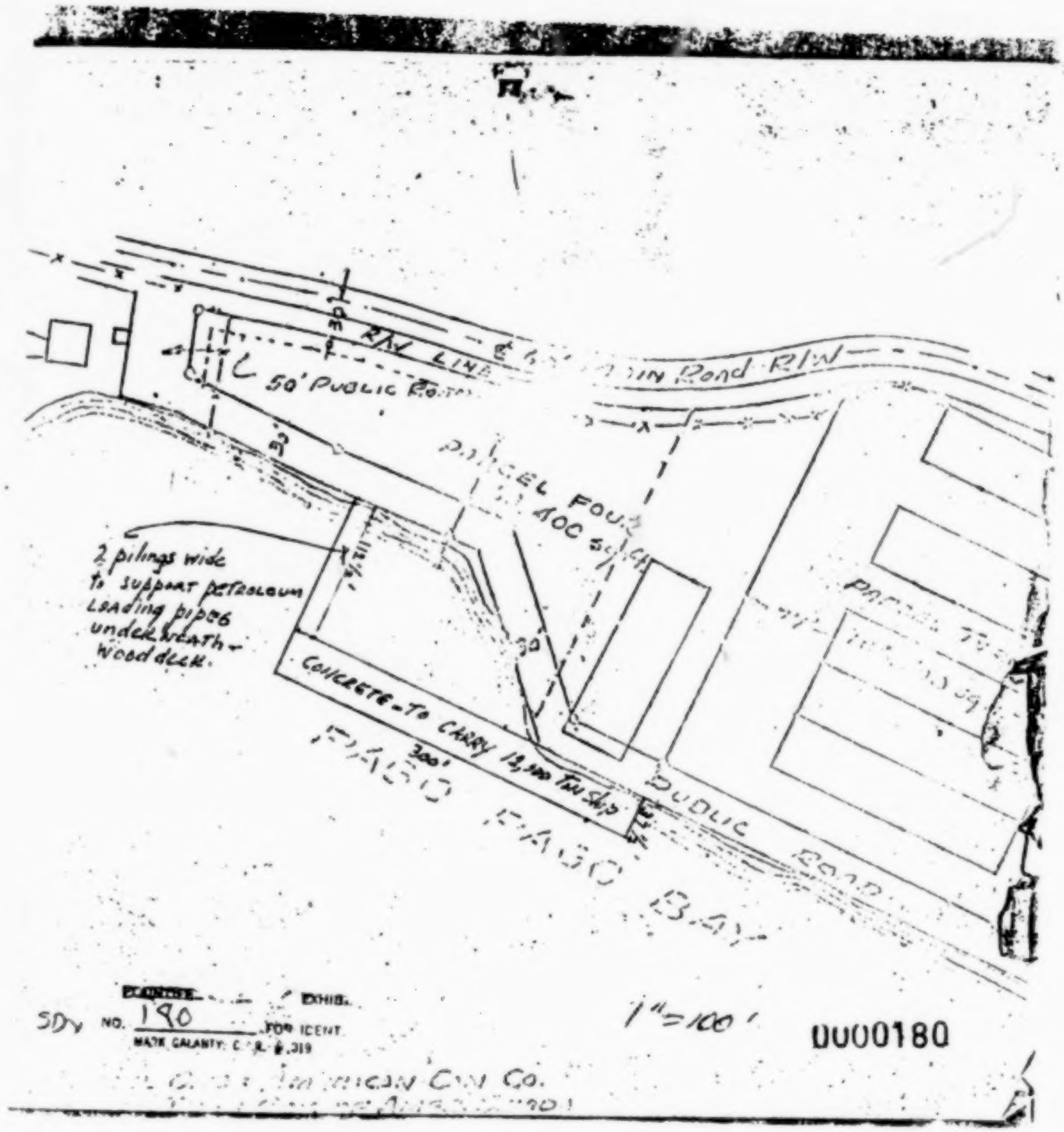
I am enclosing herewith the arrangement I would like to have on the Pego Plant.

I want to tie in at the old buildi[illegible]ches of Prince Tungi's ship will be lined up wi[illegible] so we can unload coconuts. The 371/2 feet c[illegible] that point fairly well lines up with [illegible]rki[illegible]. I don't know whether it is neces[illegible] to continue [illegible] same width towards the marine railway [illegible] know that we will be taking a 12,000 ton tanker alongside two or three times a year. We will also be taking Tungi's new ship alongside but its only a 2800 tonner. The little finger pier at the end is to sling lines under so that the petroleum products can be pumped from the tanker ashore.

Now that we are ready to do something can you give this layout the sharp pencil treatment and let me know what it will cost us and how fast you could get on it and complete it?

Regards,

PLAINTIFF EXHIB.
SDX NO. 179 FOR IDENT.
MARK GALANTY, C.S.R. #319



2 pilings wide to support petroleum loading pipes underneath - wood deck.

CONCRETE - TO CARRY 12,000 Ton Ship

1" = 100'

PLAINTIFF EXHIB.
SDX NO. 180 FOR IDENT.
MARK GALANTY, C.S.R. #319

WALKER - MOODY
CONSTRUCTION COMPANY, LTD.
Engineers • Contractors
Builders
2927 MOKUMOA STREET ★ TELEPHONE 893-781
HONOLULU, HAWAII

October 30, 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Blvd., Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Thank you for your letter of the 26th concerning your proposed pier.

The pier you suggest would be difficult and expensive to build in Samoa for a 12,000 ton tanker--especially if the Government of American Samoa insists upon applying design requirements comporable to standard U. S. facilities. The impact and surge of a vessel of that size would require extensive batter piling which requires equipment not available there. I would suggest that when it is necessary to take the larger vessels alongside that they be "held off". This is an accepted practice, in fact, it is common practice now to handle liquid cargos through submarine hoses anchored to buoys "in the stream" thus eliminating compleaty necessity for any docking facilities. (ie. Standard Oil, Barber's Point offshore bulk fuel facilities and Haw'n Electric, Waiau Plant's bulk fuel unloading is Pearl Harbor.)

I would recommend this course of action in view of the proposed infrequent use by the heavy vessel. This would allow us to desig. a pier within our present capabilities in Samoa to build.

Assuming the above is acceptable to you, I am enclosing a sketch which I feel would be a realistic solution to the problem. I assume you some day intend to fill and make use of the land behind the pier. In Phase 2 of my sketch I would propose that this be done before building the second 150' of pier which would allow us to not only construct the pier from land but would also permit our designer to use the newly created land for lateral farce anchorage.

May we have your thoughts on the above before we proceed further.

Aloha,

WALKER-MOODY CONSTRUCTION CO., LTD.

By ______________
Ross W. Moody

RWM/es
Encl 5Dy

PLAINTIFF EXH.
NO. K2 FOR IDENT.
MARK GALANTY, C.S.R.

PACIFIC COCONUT PROCESSING CORPORATION

H. R. H. PRINCE TUNGI
CHAIRMAN OF THE BOARD
RAYMOND C. TURNBULL
PRESIDENT
S. T. NAKAO
VICE PRESIDENT
REESE H. TAYLOR, JR.
SEC. TREASURER

EXECUTIVE OFFICES
8530 WILSHIRE BOULEVARD, SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE: OLEANDER 5-5761
GENERAL OFFICE AND PLANT
PAGO PAGO, TUTUILA, AMERICAN SAMOA

November 11, 1964

Ross W. Moody
Walker-Moody Construction Co., LTD.
2927 Mokumoa Street
Honolulu, Hawaii

Dear Ross:

I liked your ideas and layout and the job should be figured along those lines.

Part of the whole deal is putting these tanks up on the hill behind the old powerhouse. There is going to be one hell of an excavation job needed to hold the tanks and I planned that all the dirt and rock would go into the water. Are you figuring that your increment No. 1 will require fill? I hope so because we are going to have a lot of it.

I am going to use Chicago Bridge & Iron to erect the tanks. As you know they are putting in the water tanks and lines for the government on contract. My tankage will be 4,200,000 gallons or 100,000 bbls. To hold those tanks will require at least an eighty foot shelf. If I cut from the powerhouse towards the hill each foot will mean a lot of dirt. All of that must go into the bay.

Would appreciate the cost of your increment #1. If you need dirt just tell me without including it in the cost. If we use your outfit in Samoa to move the dirt that can be an extra cost.

Yours very truly,

Raymond C. Turnbull

PLAINTIFF'S EXHIBIT
NO. 185
5Dy

PACIFIC COCONUT PROCESSING CORPORATION

H. R. H. PRINCE TUNGI
RAYMOND C. TURNBULL
S. T. NAKAO
REESE H. TAYLOR, JR

EXECUTIVE OFFICES
8530 WILSHIRE BOULEVARD, SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE: OLEANDER 5-5961
GENERAL OFFICE AND PLANT
PAGO PAGO, TUTUILA, AMERICAN SAMOA

Governor H. Rex Lee
Pago Pago, American Samoa

April 7, 1965

Dear Governor:

A complete terminal facility will be put into Pago Harbor, subject to engineering studies and preliminary understanding, wherein diesel fuel will be delivered to your powerhouse, Starkist, Van Camp and the fishing fleet at the price of 11.85¢ per gallon. The specifications of the fuels will be equal to SOCO specs and will mean cleaner fuel to the fleet.

The following represents the general proposal and the points requiring understanding and agreement:

TANK SITE LOCATION
Subject to engineering and feasibility the site will include the old powerhouse and such adjacent government owned land required to hold tankage in a minimum of 4,350,000 gallons. For that part of the land presently under lease to GAS, the corporation will continue the same rental consideration as presently paid by GAS.

SITE PREPARATION
It is proposed that the demolition of the powerhouse and any required excavation work be undertaken at government expense, using the seaward side of PCPC as the dumping area.

SITE CONSIDERATION
It is proposed that the cost of the tank facility and installation be the consideration for the use of the site on the basis of $1,000. per month rental paydown. After payout of the facility the tanks would accrue to the government and the company would have use of the tanks at a negotiated rental.

SERVICES
A pipeline will be laid to the GAS powerhouse on [illegible]tering system, the costs to be borne by the company.
A concrete dock will be installed running 150'west from the Starkist-PCPC boundary line, which dock to facilitate unloading to PCPC and the fueling of the fishing fleet. A second 150' of dock will be added within two years.
Fueling buoys will be placed in the harbor and underwater fueling connections attached thereto. The fuel will be piped underground to the tank batteries on the hill and the end users will be supplied with gravity flow.

PROJECT COST
Total project cost will be $500,000. including dock, pipelines, tanks, pumps, buoys.

PLAINTIFFS EXHIB. NO. 216 EVIDENCE

CONTRACT REQUIREMENTS
The government, Starkist, Van Camp and the fishing companies will be required to contract, in advance, for their fuel in order to justify and protect the investment against SOCO machinations. Both Starkist and Van Camp have been advised of the new fuel rate and they are considering the proposal.

GENERAL
An American Samoa corporation, entitled to the benefits of the Industrial Incentive Act, will be formed to handle the petroleum project ~~and the control and full stock issue will be held by the~~ investor during the ~~payout period.~~
A letter agreement leading to a more formalized contract will be acceptable from fuel users prior to corporate expenditures.
The foregoing has been principally concerned with diesel fuel however, requirements in aviation and motor gasoline are included in the overall service. The remote possibility of relieving SOCO from their JP4 contract with PAA has also been taken into consideration and this fuel is available at low prices.

The operation can get underway at your convenience and upon your command.

Yours very truly,

Raymond C. Turnbull

PLAINTIFFS NO. 217 EVIDENCE

TIDEWATER DEVELOPMENT CORPORATION

[illegible] WILSHIRE BOULEVARD
SUITE [illegible]
BEVERLY HILLS, CALIFORNIA
TELEPHONE [illegible]

April 21, 1965

Mr. John R. Malone
Dillingham Corporation
Box 3468, Honolulu 1, Hawaii

Dear John:

Enclosed herewith you will find correspondence to Governor Rex Lee and Starkist Foods, Inc., price differential between Standard Oil Co. and our proposed prices in Pago Pago, bids on both the tanks from Chicago Bridge & Iron Co. and the dock from Walker-Moody and a letter from our supplier covering the jet fuel price CIF Pago Pago.

The Governor is determined to break Standard's monopoly in Samoa and towards this end he will enter into long term contracts for all petroleum requirements used by the government. I have proposed to furnish his requirements providing Starkist, Van Camp, American Can and the fishing fleet representatives agree, by contract, to enter into a long term agreement, for the purpose of guaranteeing the investment. All parties agree that such a guarantee is reasonable and prudent in order to circumvent any machinations by Standard Oil Co.

The total investment will be $500,000.00, of which $220,000. will be allocated to 110,000 barrel tankage, $95,000. to the dock construction, $100,000. to pipelines, fueling buoys, pumps etc., and $85,000. for contingencies. These figures have been concurred with by our supplier, Summit Industrial Corporation.

The payout of the investment has been geared to the sale of diesel fuel alone although the other products can bear a larger return towards towards payout. The formula for diesel is:

9.00¢ CIF Pago Pago
1.25¢ Payout of investment
1.60¢ Terminal throughput & profit
11.85¢ gallon to the consumer

There are presently 75 fishing boats operating out of Pago Pago on contract to the fish companies. Each boat makes 7-8 trips per year, using 12,000 gallons of fuel per trip. The Government powerhouse alone uses in excess of three million gallons per year. Starkist will increase their fleet by another 2, boats before the end of the year. Van Camp also intends to increase their fleet. The Kingdom of Tonga has agreed to purchase their country's requirements from us and will also fuel their three large diesel-powered ships at our facility in Pago.

The Governor has requested me to furnish him a price on JP-1A jet fuel and I gave him a price of 15.50¢ per gallon, FOB our tankside. The formula for jet fuel is:

11.50 CIF Pago Pago
2.00 Payout on investment
2.00 Terminal throughput and profit
15.50¢ per gallon

From the penultimate paragraph of the Summit Industrial Corporation letter you will see even adding 1.25¢ per gallon to our 15.50¢ would leave better than a five cent spread between our price and Stardard. I can only assume from the Governor's request that both he and PanAm would like to relieve Standard from the fueling chores at the airport. In excess of 3,500,000 gallons of jet fuel is used with the present one trip per week. It has been indicated that more than one trip per week is contemplated. The possibilities are good that we can succeed to that operation.

The foregoing information and the enclosures are presented to you for consideration as an investment en toto or as a partial investment amounting to $250,000. wherein the supplier would match dollars. It is proposed that your company's interest would cease after you had recovered three times your investment. It is also proposed that a new American Samoa corporation be formed to handle this project and that all stock be held by the investors until they have recovered their investment. Offices and storage space will be furnished free by Pacific Coconut Processing Corporation, as will the easements and access routes.

In summation, we have a minimum of 1.25¢ per gallon payout on diesel fuel in excess of 10,000,000 gallons per year - or a four year payout. This payout will be accelerated by 2¢ per gallon on Kerosene, motor gasoline and aviation gasoline, with the possibility of furnishing seven million gallons of jet fuel with the 2¢ per gallon towards payout.

Yours very truly,

Raymond C. Turnbull

PACIFIC COCONUT PROCESSING CORPORATION

H. R. H. PRINCE TUBOI
CHAIRMAN OF THE BOARD
RAYMOND C. TURNBULL
PRESIDENT
S. T. NAKAO
VICE PRESIDENT
WILLIAM B. HAUGHTON
SECRETARY
ROBERT D. WEBBNER
TREASURER

EXECUTIVE OFFICES
8530 WILSHIRE BOULEVARD, SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE: OLEANDER 5-5761
GENERAL OFFICE AND PLANT
PAGO PAGO, TUTUILA, AMERICAN SAMOA

June 15, 1965

Mr. J.T. Shaw
Summit Industrial Corporation
120 Wall Street
New York City, New York

Dear Mr. Shaw:

I decided to wait until the air cleared up on the Governor's ideas before contacting you. The following is my understanding of the steps the Governor expects to take:

1. He plans to get his own financing for the tank batteries and allied pipelines and equipment and put it all through his own government dominated corporation called The Samoan Development Corporation. He will then want to make a deal to have the oil delivered to Pago into his tank batteries. As you know, I had contacted over two years ago Asiatic, Mobil, Shell Australia etc, for the purpose of determining their interest in coming into Samoa. Unoco even took a good look at the picture - and it was from my friendship with Jim McGee that led me to your organization. Evidently, my proposal to Governor Lee, dated April 7, 1965, put the thought in his head that the ownership of the actual facilities would pay out handsomely and eventually accrue to the benefits of the [illegible]kholders of Samoan Development Corporation.

My friends at S[illegible]kist [illegible]nd Van Camp have ac[illegible] me that they have exhausted every pos[illegible] f obtaining fuel an[illegible] the other majors will not compete [illegible] Oil Co. From my [illegible]tions and price discussions with [illegible] am assuming that [illegible]es advanced by you are the best [illegible] He seemed especially [illegible]eased at your JP 1A ex-tank-tru[illegible]

I propose t[illegible] with your concurrence, prices for all the products (fuel) t[illegible]vernor requires subject to T-2 Tanker deliveries and a CIF Pago Pag[illegible]ce. I also propose that an additional 1/2¢ per gallon be added [illegible] he [illegible]ice of diesel, JP 1A, gasoline and kerosene but not including any [illegible]ubes, and that you and I split the 1/2¢ per gallon equally. [illegible] the negotiating with [illegible]overnment of American Samoa on behalf of Summit or whichever comp[illegible]u use, and you will supply me with the accurate price list up to [illegible] at the time negotiations commence.

Would you please let me have your comments on the foregoing and whether or not you can concur with the proposal.

Yours very truly,

Raymond C. Turnbull

PLAINTIFF EXHIB.
NO. [illegible] FOR IDENT.
MARK GALANTY, C.S.R.

SUMMIT INDUSTRIAL CORPORATION
120 WALL STREET
NEW YORK, N.Y. 10005
CABLE ADDRESS SUMITIND
TELEPHONE WHITEHALL 4-7491

June 16th, 1965

Mr. Raymond C. Turnbull
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard, Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

We wish to thank you for your letter of June 15th, 1965 with the enclosure. Mr. Shaw is now in Bangkok. The letter is being forwarded to him and we trust that you will receive a direct reply from him.

In the meantime, if there is anything that we can do to be of service to you, please do not hesitate to contact the writer.

Yours very truly,
SUMMIT INDUSTRIAL CORPORATION

C. P. YOUNG

CPY:gl
CC: Mr. J. T. Shaw
Summit Industrial Corp. (Panama)
Sibunruang Building
283 Silom Road
Bangkok, Thailand

PLAINTIFF EXHIB.
NO. 226 FOR IDENT.
MARK GALANTY, C.S.R.

SUMMIT INDUSTRIAL CORPORATION (PANAMA)
BANGKOK OFFICE
10th FLOOR SIBUNRUANG BUILDING, 983 SILOM ROAD
BANGKOK, THAILAND.
CABLE ADDRESS:
"SUMITIND BANGKOK"
TELEPHONE:
36740, 35248, 37031, 37032 & 33434

NEW YORK OFFICE:
SUITE 615
120 WALL STREET
NEW YORK 5, NEW YORK
TEL: WH 4-7400

PANAMA OFFICE
ARCIA BUILDING
JUSTO AROSEMENA &
ECUADOR AVES.
P.O. BOX 6007
PANAMA, R. OF P.

June 25, 1965

Mr. Raymond C. Turnbull
Pacific Coconut Processing Corporation
8500 Wilshire Boulevard, Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

I received your letter of June 15, 1965 through my New York office. I am pleased to inform you that I agree to your proposal.

Under this new arrangement, we shall deliver oil CIF to the storage tanks provided by The Samoan Development Corporation. Please negotiate with the Governor basing on the prices which I gave to you previously and plus 1/2 cent mark-up as you suggested. If there is any further adjustment needed on the price, kindly cable me care of "SUMITIND BANGKOK" before July 4th for confirmation. Or, you can always channel your message through my New York office.

Very truly yours,

SUMMIT INDUSTRIAL CORPORATION (PANAMA)

J. T. Shaw

J. T. Shaw

JTS:ub
cc: New York Office

~~PLAINTIFF~~ EXHIB.
SDX NO. 227 FOR IDENT.

TIDEWATER DEVELOPMENT CORPORATION

8500 WILSHIRE BOULEVARD
SUITE 309
BEVERLY HILLS, CALIFORNIA
TELEPHONE 655-5766

July 12, 1965

Mr. Brian Pitts
Shell Co. (Pacific Islands Ltd.)
Suva, Fiji

Dear Brian:

It has been a year since we corresponded regarding the possible entry of your company into Pago Pago, American Samoa.

It is my understanding, and rather sketchily so, that Shell may be considering an entry into Pago Pago providing they can obtain the products at an attractive price.

I am fully aware that oil companies usually peddle their own products but sometimes expediency may change their format. In the event your company is interested in purchasing JP-1A jet fuel, diesel, mogas and kerosene, I would like to quote you a price, the delivery either to be CIF Pago Pago in T-2 tankers or FOB your tankers within your area of operations.

The offer is not an idle one, the products meeting the best specification and the source responsible. I am also aware of the closeness [illegible] price structures and believe the prices I can submit [illegible] [illegible]tract[illegible].

If my under[illegible] [illegible]ct, and if you[illegible] [illegible] is [illegible]ously inter[illegible] [illegible] market prospect, [illegible] [illegible]ntact [illegible] new ad[illegible] [illegible] the above add[illegible]

[illegible] Turn[illegible]l
[illegible] [illegible]way Drive
Los Angeles 6[illegible], California

Please conve[illegible] [illegible]st regards to [illegible]m Marsh, also my best wishes to you.

Yours very truly,

Ray

Raymond C. Turnbull

PAGO DEVELOPMENT, INC.

PAGO PAGO, AMERICAN SAMOA

Mr. J.T. Shaw, President
Summit Industrial Corporation
120 Wall Street
New York, N.Y. 10005

July 30, 1965

Dear Mr. Shaw·

I am enclosing herewith a breakdown on the petroleum products showing the real CIF prices plus the additional markup to be divided between us. If they are acceptable to you would you please write a letter on your stationery and offer to deliver the products at the following CIF prices·

JP-1A	13.50¢
L. Diesel	9.65
M. Diesel	9.50
Kerosene	13.55
93 Mogas	12.80¢

Make it subject to the T-2 Tanker delivery and also to the posted price you choose.

Please Address the letter to the Summit Oil Corporation, 14400 E. Firestone Blvd., La Mirada, California, Mr. William McCook, President. Please mail it to me however, at my new office at 8756 Holloway Drive, Los Angeles 69, California.

I plan to have Summi [illegible] rpora [illegible] as urchaser from you and seller to Government [illegible] fish mpanies. Summit Oil will put in the docks, tank [illegible] ties with an investment of $500,000. Bill McCook, a friend [illegible] a banking family already has a shell California corporation and will change the name to Summit Oil if you have no objections to that corporate [illegible] ing business in American Samoa. I thought that name would b [illegible] iate in the event new modern service stations were included in the [illegible] ing. It also lends continuity to the whole picture.

The Tonga people that have stock control of Pacific Coconut, will act as operator, furnish [illegible] services and personnel and equipment. The offices of PCPC are al [illegible] ne area for th [illegible] ew dock and across the street from the propose [illegible] k battery. They [illegible] a lot to gain, using the new dock, having free offices and directl [illegible] ed in with an operation that can cut their Kingdom's fuel bill in half

Call me at my new office number 212-6524783 [illegible] there are any points for discuss ons.

Yours very truly,
Raymond C. Turnbull
Raymond C. Turnbull

PLAINTIFF EXH'T
SDY No 329 FOR IDENT
MARY GALANTY, C

BREAKDOWN OF PETROLEUM PRODUCT COST INTO AMERICAN SAMOA

JP-1A - Based on 7,000,000 gallons per year

		Shaw	RCT	Operator	Tank Investor
11.50¢	CIF				
2.00	Profit	$70,000.	70,000		
1.50	Tank Investor				$ 105,000.
50	Operator			$35,000.	
1.50	Servicing PAA			105,000.	
17.00¢	per gal to PAA				

Light Diesel - Based on 4,000,000 gallons per year to Government

		Shaw	RCT	Operator	Tank Investor
9.15¢	CIF				
50	Profit	$25,000.	25,000.		
1 25	Tank Investor				125,000.
.50	Operator			50,000.	
11.40¢	per gal. to Government				

Marine Diesel - Based on 6,000,000 gallons per year - fishing fleet.

		Shaw	RCT	Operator	Tank Investor
9.00	CIF				
50	Profit	15,000.	15,000.		
1.25	Tank Investor				90,000.
50	Operator			30,000.	
11.25¢	per gal. to fishing fleet.				

Pearl Kerosene - Based on 300,000 gallons [illegible] ear

		Shaw	RCT	Operator	Tank Investor
11.55	CIF				
2.00	Profit	[illegible]	[illegible]		
2.00	Tank Investor				6,000.
1.50	Operator			4,500.	
17.05¢	per gallon.				

Motor Gasoline - [illegible] on [illegible] 00 gal. [illegible] year

		Shaw	RCT	Operator	Tank Investor
[illegible] 80	CIF				
.00	Profit		6,[illegible]0.		
[illegible].00	Tank Investor				12,000.
[illegible].50	Operator			9,000.	
16.30¢	per gallon	$119,000.	119,000	~~$119,000.~~ 235,500	$338,000

NOTE:
Profit, as ind [illegible] divided equal [illegible] ween Mr. Shaw and Turnbull.
NOTE· Total p [illegible]

7 [illegible]	JP-1A
4,[illegible]	Light Diesel
6,[illegible]	Marine Diesel
6 [illegible] allons	Motor Gasoline
[illegible] 00 gallons	Kerosene
17,[illegible] 000 gallons	total

[illegible] itary contract [illegible] jet fuel and Kingdom of Tonga contract not figured above computation.

PLAINTIFF EXH'T
SDY NO 323 FOR IDENT
MARY GALANTY

OCEANIC PETROLEUM CORPORATION
ARCIA BUILDING
JUSTO AROSEMENA AND ECUADOR AVENUES
P. O. BOX 4307
PANAMA, REPUBLIC OF PANAMA

PLEASE REPLY TO:
NEW YORK REPRESENTATIVE
SUITE 818
120 WALL STREET
NEW YORK 5, NEW YORK
TEL: WH 4-7490

August 4, 1965

Mr. William McCook
14400 E. Firestone Boulevard
La Mirada, California

Dear Mr. McCook:

We are pleased to offer to deliver to your terminal at Pago Pago, American Samoa, petroleum products in bulk at the following CIF prices:

JP-1A	13.50 cents/U.S. gallon	
High Speed Diesel (53/57 D.I.)	9.65 cents/U.S. gallon	
Marine Diesel	9.50 cents/U.S. gallon	
Kerosene	13.55 cents/U.S. gallon	- 1½
Mogas, 93 R.O.N.	12.80 cents/U.S. gallon	- 1½

These prices are subject to deliveries in T-2 size Tankers, and also to any change in the posted price of each product from August 3, 1965 posting FOB Pulau Bukom by Shell, as reported in the Platt's Oilgram.

14,000 T
= 4,41

The posted prices in effect at Pulau Bukom on August 3, 1965 were:

JP-1A (Turbine Fuel)	10.1 cents/U.S. gallon
Mogas, 93 R.O.N.	10.1 cents/U.S. gallon
Kerosene	9.4 cents/U.S. gallon
High Speed Diesel (53/57 D.I.)	8.0 cents/U.S. gallon
Marine Diesel	$3.15 per barrel

We are taking the liberty of enclosing a copy of the said Oilgram for your reference.

PLAINTIFF EXHIBIT
NO. 230 FOR IDENT.
MACK GALAVITY, C.S.R.

We propose to enter into a long term contract with you for ten years. We shall guarantee the supply of the products upon your nomination.

We understand that you are in the process of planning for storage facilities and a couple of modern service stations in American Samoa. If we can be of any service to you, kindly let us know.

Very truly yours,

OCEANIC PETROLEUM CORPORATION

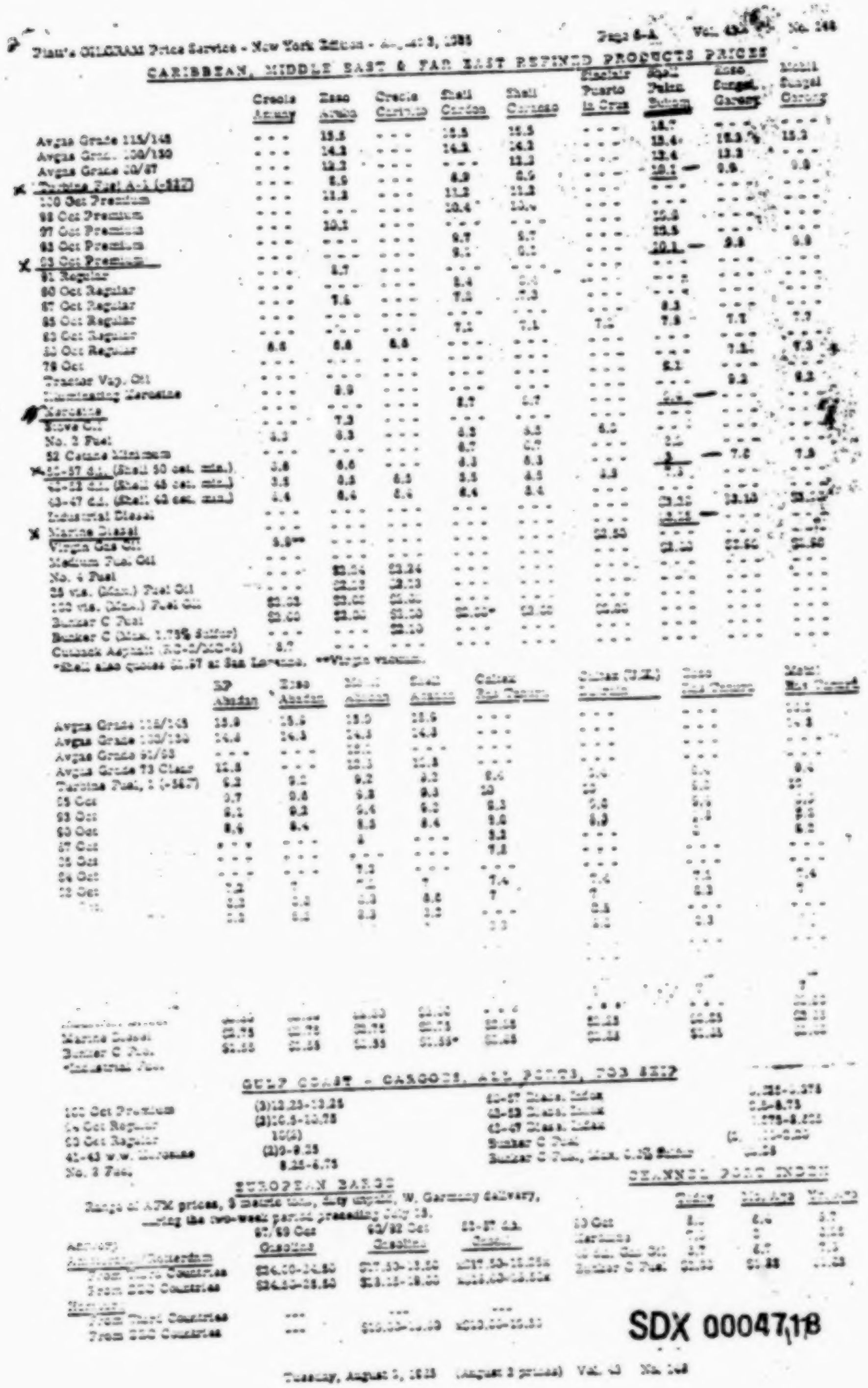
J. T. Shaw
President

JTS:ag

Enclosure

cc: Mr. R. C. Turnbull

PLAINTIFF EXHIB.
NO. 231 FOR IDENT.
MACK GALAVITY, C.S.R.



Platt's OILGRAM Price Service - New York Edition - August 3, 1965 Page 6-A Vol. 43 No. 148

CARIBBEAN, MIDDLE EAST & FAR EAST REFINED PRODUCTS PRICES

GULF COAST - CARGOES, ALL PORTS, FOB SHIP

EUROPEAN BARGE

CHANNEL PORT INDEX

Tuesday, August 3, 1965 (August 2 prices) Vol. 43 No. 148

EBP/BMF

SHELL HOUSE
SUVA.

5th August 1965

E.B. PITTS:

Dear Ray,

Thank you very much for your letter 12/7/65 regarding American Samoa.

2. For a number of reasons we have decided that on the basis of our present supply arrangements the Pago Pago market does not offer a sufficiently attractive margin to justify immediate action.

3. It may well be that your source of supply for the products mentioned in your letter could change our thinking and I would be grateful if you would, as suggested, quote me prices for delivery on a C.I.F. basis Pago and alternatively F.O.B. our tankers.

4. It would be necessary for us to know the point of supply so that we could properly cost the freight increment.

5. I conveyed your regards to Jim Marsh and he asked me to reciprocate on his behalf and to this I add my own very good wishes.

Yours sincerely,

Brian.

Mr. Raymond C. Turnbull,
Tidewater Development Corp.,
8530 Wilshire Boulevard,
Suite 309,
Beverly Hills, California U.S.A.

Draft of McCook proposal - by Turnbull

Dear Governor:

We are desireous of establishing a petroleum bulk facility in Pago Pago Harbor, American Samoa.

Our interest in establishing the facility is geared to supplying all of the government's and industry's requirements through a reasonable period of investment return. Standard Oil Co. has proven ruthless in the past in defense of monopolies and, in the absence of contracts to protect ourselves, we would be exposed to temporary price cutting in order to make our position unfeasible and untenable.

We propose therefore that a long term contract be entered into between ourselves, the Government of American Samoa, Starkist Foods Inc., Van Camp and poss~~ib~~ly Pan American Airways, in which we will agree to sell and you will agree to buy two grades of diesel fuel, JP-1A jet fuel, motor gasoline and kerosene at a price acceptable to you and geared to a posted price schedule ~~that is currently~~ below those schedules used by Standard Oil, Mobil and Shell Oil ~~Company~~. All lubes, greases and solvents can ~~as~~ easily be furnished so as to round out the complete line of petroleum products.

~~Enclosed herewith is~~ a firm commitment from ~~Summit Industrial Corporation of New York~~, to deliver the products CIF to us in Pago Pago. Our delivered price to the Government powerhouse, via metered pipelines, will be 11.40¢ per gallon. The Marine diesel will be delivered dockside to the fishing fleet at 11.25¢ per gallon. The JP-1A jet fuel price into PAA tanks will be 17.00¢ per gallon and the 93 octane motorgas will be 16.30¢ per gallon.

The cost of the fuel, investment amortization, supporting facilities and operation are included in the above quoted prices. Not included in any costs are taxes imposed by G.A.S. It is our understanding that the fish companies and their contracted fishing fleet pay no fuel taxes, the same exemption applying to Government. The 17¢ per gallon quoted for JP-1A could bear a reasonable tax and still be under the price now paid for Standard fuel.

Depending upon the IRS approved depreciation schedule to be used on the terminal bulk facility we would undertake to turn the whole facility back to the Government at a depreciated price in ten years and lease the facility at a predetermined rental fee.

We would like to discuss with you the possibility of underwriting a modern Samoan-type gasoline station to be placed at the division of the main road and the old road next to the new Motor Pool. It is our thought that the Samoan Development Corporation could own and operate the station and our investment could be repaid out of gasoline sales - the price differential between our delivered price and the going retail price being 20.20¢ per gallon. A station designed by the Wimberly firm would undoubtedly become the most popular and successful station on the island.

PLAINTIFF EXHIB. SOX NO. 237 FOR IDENT. MARK GALANTY, C.S.R.

In the event that Standard ~~Oil Co.~~ would leave the island, due to a Government-Industry contractural arrangement with us - their leaving ~~to be~~ prior to our investment, ~~then the price of fuels~~ would be even lower.

The only principals involved in this proposal included Summit Industrial Corporation, ~~Mr. J.T. Shaw~~, President, and a new proposed Samoa corporation to bear the name Samoa Oil Corp., with myself as President.

It has been suggested by Starkist that you act as the catalyst in this proposal.

If the foregoing proposal is acceptable in principle, it is requested that a meeting be held while you are still in the U.S. for the purpose of discussing and finalizing arrangements and possibly executing a letter agreement between all interested parties.

Yours very truly,

William R. McCook

The principals and the chain of command is as follows: Oceanic Petroleum Corp., J.T. Shaw-President will deliver the product ~~[illegible]~~ to Pago Pago. A new Samoa corporation, to be formed, and to be headed by myself, will take delivery of the products into our terminal facility and dispense the products to Government, fishing [illegible] ~~through a~~ ~~operating [illegible] to be set up~~

PLAINTIFF EXHIB. SOX NO. 238 FOR IDENT. MARK GALANTY, C.S.R. #3018

50 92 OCEANIC PETROLEUM CORP CO I AUG 25 1965 N 1957 1

120 WALL ST (RM 818)
NEW YORK N Y 10005

TRADE SEE TRADE
SALES $14,000,000 ♦
WORTH $3,500,000 ♦

♦ JAY T. SHAW, PRES
♦ PEH H. YEN, SEC
♦ CHENG C. WANG, V PRES-TREAS
C.J. HAUNG, V PRES
DIRECTORS: The officers indicated by (♦)

SUMMARY ESTABLISHED PANAMANIAN CORPORATION WITH VOLUME INCREASING AND OPERATIONS PROFITABLE. NOVEMBER 30 1964 FISCAL STATEMENT SHOWS SATISFACTORY FINANCIAL CONDITION.

TRADE All merchandise transactions are directed outside of the United States with principal purchases on open account basis for petroleum products primarily in the Persian Gulf area.

FINANCE Interviewed August 24, 1965, J. T. Shaw, President, exhibited the fiscal statement of November 30 1964 for review, but not for publication.

Those figures showed sales for the year ended November 30, 1964 were in excess of $14,000,000 representing an increase over the previous year with operations profitable and retained profits increasing tangible net worth.

That balance sheet showed a net worth in excess of $3,500,000 with a satisfactory financial condition. There were no long term debts and no contingent debts. Current debts were covered by the aggregate of cash and receivables. Management reports no problem encountered in collection of receivables. It should be pointed out that sales are on letter of credit basis. The major assets of the company consists of loans and receivables from affiliates carried as non-current assets. It is also noted that a portion of the non-current assets consisted of a 49% stock interest in an asphalt plant operated by the affiliate, Thai Asphalt Mfg Co. Ltd., which is located in Thailand and which is commented on in the "History" section of the report.

The President further said sales since November 30, 1964 have continued to grow with operations profitable

A financing statement was entered May 14, 1965, File #20,309 listing subject as debtor and The Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York City as Secured party. Collateral: All personal property and fixtures of debtor wherever located and whether now owned or in existence or hereafter acquired or created including goods, documents, instruments, general intangibles, chattel paper, accounts and contract rights. Proceeds and products of collateral are also covered.

Account at bank since 1957, balances in satisfactory proportions. Accommodations had been extended in the past on an offering basis and also in connection with letters of credit with accommodations handled satisfactorily.

OPERATION Wholesales bulk petroleum and petroleum products with all transactions originating and completed outside of the United States. Merchandise requirements are purchased primarily from the Persian Gulf countries with sales to oil importers, industrial accounts and local marketing organizations located in the Far East and all sales on letter of credit basis. Non-seasonal. All officers active and all located in New York City. LOCATION: At 120 Wall Street, the President maintains office. Building is multi story office structure in good repair located downtown. Headquarters are in Arcia Building, Justi Arosemene and Ecuador Avenue, P.O. Box #6307, Panama City, Republic of Panama. Subject also has branch location on

(CONTINUED)

OPERATION (Cont'd) Yutosand Building, Queens Row Central, Hong Kong.

HISTORY Corporation chartered under Panamanian laws May 8, 1957. Authorized capital $1,000 consisting of 1,000 shares common stock par value $1 per share. Outstanding Capital stock 1,000 shares at November 30, 1964 with capital stock owned by the officers.

J. T. Shaw, born in China in 1916, married. Graduate M.I.T. with MS Degree, Mechanical Engineering. Arrived United States in 1942 representing the Chinese Government. In 1944-1948 while connected with the Chinese Government in training programs for the Republic Steel, Studebaker Corporation, United States Steel and General Motors Corporation. Returned to China in 1948 and returned to the United States in 1949. 1949 employed by China Mutual Trading Co. until 1949 when became employed by Chinese Military Procurement Office, Washington, D.C. 1949 elected officer Summit Industrial Corp.

P. H. Yen, born China 1917, married. Graduate M.I.T., Chemical Engineering with Masters Degree in 1945. 1945-1947 employed as development engineer with Firestone Tire & Rubber Co., Akron, Ohio. 1947-1948 employed in import-export field. 1948 elected officer in Summit Industrial Corp.

C. C. Wang, born China 1918, married. Arrived in United States 1943. Graduate of M.I.T. in Chemical Engineering with Masters Degree in 1944. 1944-1945 development engineer for Firestone Tire & Rubber Co., Akron, Ohio. 1945-1946 development engineer for E. I. du Pont. 1946-1947 employed by China Mutual Trading Co., New York City. 1947-1948 returned to China. Returned to the United States 1948 and elected officer in Summit Industrial Corp.

C. J. Huang, born China 1916. Graduate University of Michigan with Masters Degree in Civil Engineering 1934. During World War II with Chinese Air Force as Deputy Chief of Construction Branch. He is also Vice President and Assistant Secretary of Summit Industrial Corp.

Above officers are also officers in the following companies:

Summit Industrial Corp. (Panamian corporation) located 120 Wall Street, New York City. Chartered Panamian laws October 3, 1957. Markets petroleum products in Thailand and other Far Eastern countries and maintains a fleet of oil barges and tank trucks. Also operates filling stations. A financial statement has not been released on this company.

Summit Import Corp., located this address. Chartered under New York laws April 20, 1955. Imports foodstuffs including frozen seafood, canned foods and tea from the Far East. Financial statement at December 31, 1963 showed tangible net worth of $53,613 with financial position somewhat heavy.

U.S. Summit Corporation, located this address. Chartered under New York laws December 15, 1952. Exports pharmaceuticals throughout Far East. Financial statement at December 31, 1963 shows tangible net worth of $963,388 with generally satisfactory financial condition.

Pure Laboratories Inc., located this address. Chartered under New York laws July 31, 1951. Formulates and sub-divides antibiotics and manufactures vitamins, hormones and allied products. Late financial statement has not been released on this company.

Thai Asphalt Manufacturing Co. Ltd., located Thailand and operates an asphalt plant. Individual figures have not been released. This company was formed about 1963.

Inter company relations are reported to exist primarily between Oceanic Petroleum Corporation and Thai Asphalt Manufacturing Co. Ltd.

(CONTINUED)

OCEANIC PETROLEUM CORP
NEW YORK N Y

AUG 25 1965
PAGE 3

HISTORY (Cont'd)

whereby Oceanic Petroleum Corp. provides Thai Asphalt Manufacturing Co. Ltd. with crude oil on letter of credit basis. There are also loans to some of the other companies.

8-25-65 (16 020) LBA 3A40 (12)

NOTE

THIS REPORT COVERS ONLY THE BRANCH (OFFICE OF THE PRESIDENT) AT THIS ADDRESS. AN INTERNATIONAL DIVISION REPORT AT THE FOREIGN HEADQUARTERS LOCATION COVERING THE OVERALL COMPANY OPERATION MAY BE REQUESTED THROUGH YOUR LOCAL DUN & BRADSTREET INC. OFFICE.

October 5, 1965

Governor H. Rex Lee
Pago Pago
American Samoa

Dear Governor Lee:

I understand you have been traveling in the Far East for the past three weeks. I just wanted to drop you a note to let you know that I have the balance of the information we discussed on the telephone, covering our supplier's financial strength.

As you know, I was standing by to go East to possibly try to consummate this deal while the Chicago Bridge Works people were still in Samoa, in order to keep them on and thus save a considerable amount in the fabrication of the storage tanks. This could have some effect on the price.

I would like to point out to you that we are definitely interested still and we do feel we could save the Government of American Samoa a sizeable amount in their fuel budget if the right terms could be reached, which, incidentally, are still along the lines we discussed.

If and when you would be interested in going into this type of distributor change, I want you to know that I will be available to visit you within any reasonable notification. In the meantime, if there are any questions you wish answered by mail, please do not hesitate to write.

Very truly yours,

W. R. McCook

WRMcC:vmr

PLAINTIFF EXHIB.
NO. 246 FOR IDENT.
MARK GALANTY, C.S.R.

Tell Ray
& file

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:
GAS/15F
Serial:

NOV 1 6 1965

Mr. W. R. McCook
14400 East Firestone Boulevard
La Mirada, California 90638

Dear Mr. McCook:

Your letter of October 5, 1965, reached us only today, as it was apparently sent surface mail.

We are still definitely interested in trying to improve our fuel oil distribution system. At the present we are exploring ways and means of obtaining a suitable site to carry out some harbor development for a new fuel depot, and I am sure we will want to get back in touch with you in the very near future.

Your continued interest in American Samoa is sincerely appreciated.

Sincerely yours,

H. REX LEE
Governor

PLAINTIFF EXHIB
NO. [illegible] FOR IDENT.
[illegible]

Mr. Robert Burrows, Vice President
Dillingham Corporation
Box 3468, Ala Moana Building
Honolulu 1, Hawaii

November 24, 1965

Dear Mr. Burrows:

John Malone suggested I contact you regarding a possibility in American Samoa. Reference is made to all of the Don Schmuck file concerning dredging and land reclamation in the Tafuna Bay area, American Samoa.

I had, prior to February, 1964, proposed to Governor H. Rex Lee that we would dredge the lagoon, create from 85-100 acres of deep water frontage and lease such land to new industry for American Samoa, the consideration for a fully paid up lease for 55 years to the A.S. Government being the cost of the total land reclamation. At the time of the proposal H.R. 2073 -"to place certain submerged lands within the jurisdiction of the Governments of Guam, the Virgin Islands and American Samoa" was being either tested or amended.

It is my present understanding that the Government of American Samoa is now actively engaged in clearing through the Congress the right to dredge and create new land in the same area and for the same purposes that we had earlier proposed.

My associates wish to create a new bulk petroleum facility in Samoa, complete with tankage of six million gallons, docking space for tankers and refueling facilities. With no available deep water frontage in Pago Pago Harbor, it appears obvious that the development of Tafuna Bay is warranted. If such land was created my associates would require long term leases.

I wouldn't attempt to second-guess the Governor but I could predict that there would be interest from his government in having private enterprise pay the costs of the land reclamation in return for an equitable leasehold. A combination of strong lessees over a long period of time could be of possible interest to your company in undertaking the land reclamation.

Subject to the Governor's approval, my associates are ready to construct a $500,000. terminal. Your review of the Schmuck file and your comments are requested on whether the timing is right for preliminary overtures to Governor Lee.

Yours very truly,

Raymond C. Turnbull
8756 Holloway Dr., Los Angeles 69
Telephone 652-4733

DILLINGHAM CORPORATION

Box [illegible] · Honolulu, Hawaii [illegible] · Cable: DILCO

November 30, 1965

Mr. Raymond C. Turnbull
8756 Holloway Drive
Los Angeles 69, California

Dear Mr. Turnbull:

This will acknowledge your letter of November 24th concerning land reclamation possibilities at Tafuna Bay, American Samoa.

It is interesting to note that the Government of American Samoa is active in clearing through Congress the right to dredge and create new land from certain submerged lands in the area. Favorable results in this regard are obviously a prerequisite to undertaking any project in this area.

We of course would be interested in any major dredging project and certainly you are acquainted with our qualifications and facilities to undertake such a program. We would not contemplate at this time entering into any dredging program the consideration for which would be a fully paid up lease or our ownership in such reclaimed land. In the event you are successful in obtaining prime lessees or other developers who may be interested in financing the cost of such reclamation on a direct contract basis then we would develop further the possibilities of a dredging contract.

We would appreciate it if you would keep us advised of the success you may have in developing such lessees as well as the progress of the Government of American Samoa pursuant to HR 2073.

Very truly yours,

DILLINGHAM CORPORATION

R. B. Burroughs
Vice President

RBB/mp

TANKS FOR PETROLEUM
AMERICAN SAMOA

Builder: Chicago Bridge & Iron
Mr. Ray Johrde
Ex 289 36 - San Francisco

Johrde suggests: (For floating tank top required by Shaw) Use Weathermaster roof-cone with inside pan on oil to conserve light fractions. Will also let water run off without mingling with oil.

Bid: Four tanks as per Shaw for $195,000. erected. This includes accessosries, ladders etc. Pickled and primed.

Timing: They can start on our job in August, after finishing water tanks for government.

Our deal should be made with them by end of January. Could make deal in Feb. but Jan. is best.

Miscellany:
35,000 bbl. tank - 48' high - 70' diameter

Bill Gross will be overseer on their Tahiti and Samoa job. Will be in Los Angeles November 27th and in Pago Nov. 29th. In Hono 28th.

CONCLUSION:

The water people are getting their 89,285 bbl. tanks put in for a little under $1.80 per bbl. At $2.00/bbl. $178,570.

If we get our 100,000 bbl. put in at $1.80 our price should be $181,000. for the fully erected tanks with all accessories, pickled and primed.

Estimate:

Pipelines - 3400' - 3/4" galv.
1. To Starkist - Van Camp - Powerhouse
2. Tanks erected . - . . - 190,000.
3 Dock Cost
4. Excavation - walls
5. Pipelines to dock.
6. Pumps - Accessories
7. Buoy & offshore lines.

SDX 177 [illegible]

Ludwig - Continental - Shaheen Refining - Colon, Panama.

		Carrib Posted Price	Ton	Shipping cost	Insurance
Ton	JP-1A	8.9 ¢	[redacted]	7.00 ton	
	Diesel (57Ct)	6 ¢	$19.00	7.00 Ton.	
$2.40 - $2.50 bbl.	Marine Diesel	6 ¢/gal	$19.00 $	7.00 ton	
	Kerosene			7.00	
	Gas Aviation			7.00	

[redacted] EXHIBIT
SDY NO. 235 FOR IDENT.
MARK GALANTY, CSR #[illegible]

LUDWIG-CONTINENTAL-SHAHEEN REFINERY
COLON-PANAMA
1964

Posted Prices:

JP-1A	8.9¢
Diesel (57C)	6.0
Marine Diesel	6.0
Kerosene	
Aviation Gas	

[redacted]
SDY NO. 236

FUEL INFORMATION

1. Standard selling diesel at 14.8¢ per gal.
2. Standard selling light bunker at 14.95¢ per gal.
3. Socal has contract with Star-Kist (10yrs) to sell 60% of their products.

FLETCHER PRICES F.O.B. PLANT

11.7¢ motor gasoline	)	Should be
.0835¢ diesel	)	84¢ bbl.
6¢ light bunker	)	plus .003 for plant to dock

SOCAL

12.31 gasoline	)	$2.4948 bbl.
9.14 diesel	)	2.5872 bbl.
6.667 bunker	)	1.73 bbl.

Freight	shouldn't be over 2.1¢ gallon
Insurance	shouldn't be over 0.07¢ gallon
Area markup	Runs between 2.75¢ (diesel) & 3.25¢ kerosene and gasoline
Terminal throughput	1.50¢ diesel and 2¢ kerosene and gasoline
Wholesale markup	?
Retail markup	?

PLAINTIFF EXHIB.
NO. 266 FOR IDENT.
MARK GALANTY, C.S.R. #3019

BREAKDOWN OF PETROLEUM COSTS TO SAMOA

JP-1A - Based on 7,000,000 gallons per year to PAA

		Tank Investor	Operator
13 50¢	CIF Pago		
1.50	Tank Investor	$ 105,000.	
.50	Operator		$ 35,000.
1.50	Servicing PAA		105,000.
17.00¢	per gallon to PAA		

Light Diesel - Based on 4,000,000 gallons per year to Government

9.65¢	CIF	50,000	
1.25	Tank Investor	125,000.	
.50	Operator		50,000.
11.40¢	per gallon to Government		

Marine Diesel - Based on 6,000,000 gallons per year - fishing fleet.

9.50¢	CIF		
1.25	Tank Investor	90,000.	
.50	Operator		30,000.
11.25¢	per gallon to fishing fleet		

Pearl Kerosene - Based on 300,000 gallons per year

13.55	CIF		
2.00	Tank Investor	6,000.	
1.50	Operator		4,500.
17.[illegible]	per gallon.		

[illegible] Gasoline - 93 oc[illegible] [illegible] on 60C [illegible]-yr

[illegible]	CIF		
[illegible]	Tank Investor	12,00C	
[illegible].50	Operator		9,000.
16.30¢	per gallon		

PLAINTIFF EXHIB.
SDy NO. 266 FOR IDENT.
MARK GALANTY, C.S.R. #3019

PROFITABILITY AND PAYOUT TO TANK INVESTOR
ON EXPENDITURE OF $500,000

JP-1A - Based on minimum of 7,000,000 gallons jet fuel to Pan American Airways and military contract - at 1 25¢ per gallon	$ 105,000
Light Diesel Fuel - Based on 4,000,000 gallons to Government powerhouse - at 1.25¢	50,000 ~~125,000~~
Marine Diesel Fuel- Based on 6,000,000 gallons per year to Japanese, Korean and Formosan fishing fleet operating under contract to Starkist Foods, Inc and Van Camps - at 1.25¢ gallon	90,000
Pearl Kerosene - Based on 300,000 gallons per year to Government and native population at 2¢ per gallon.	6,000.
Mogas 93 Oct. - Based on 600,000 gallons per year to Government and population - 2¢ gal.	12,000
TANK PAYOUT/YR.	338,000
	- 75,000
	263,000

~~PLAINTIFF~~ EXHIB.
5 DY NO. 268 FOR IDENT.
MARK GALANTY, C.S.R. #3019

PROFITABILITY AND PAYOUT TO TANK INVESTOR
ON EXPENDITURE OF $500,000

JP-1A - Based on minimum of 7,000,000 gallons jet fuel to Pan American Airways and military contract - at 1 25¢ per gallon	$ 105,000	- 87,500
Light Diesel Fuel - Based on 4,000,000 gallons to Government powerhouse - at 1.25¢	125,000	50,000
Marine Diesel Fuel- Based on 6,000,000 gallons per year to Japanese, Korean and Formosan fishing fleet operating under contract to Starkist Foods, Inc and Van Camps - at 1.25¢ gallon	90,000	65,000
Pearl Kerosene - Based on 300,000 gallons per year to Government and native population at 2¢ per gallon.	6,000.	6,000
Mogas 93 Oct. - Based on 600,000 gallons per year to Government and population - 2¢ gal.	12,000	12,000
TANK PAYOUT/YR.	338,000	$220,500

PLAINTIFF EXHIB.
5 DY NO. 274 FOR IDENT.
MARK GALANTY, C.S.R. #3019

Geo. Lee
(202)
3434308

CONTENT

CIF
Cargo, Ins. Freight.

1. Purpose
2. General Information
3. Investment
4. Profitability and Payout to Tank Investor
5. Standard Oil Co. Specifications and prices to Government
6. Dock and Tank Battery Location
7. Dock Bid - Walker Moody Construction Co.
8. Tank Bid - Chicago Bridge & Iron Co.
9. Balance Sheet - Petroleum Supplier

315 gal of
amber diesel = 1 ton
long ton 2240 lb.

Q

315
~~44,000,~~
4,410,000
gal.

EXHIBIT
SDY NO. 276
MARK GALANTY, C.S.R.

PURPOSE

To obtain a full requirements contract from the Government of American Samoa for a period of from six to ten years - to supply fuel to the Government powerhouses, to the Government motor pool, to Public Works.

To obtain a full requirements contract from Starkist Foods, Inc., Van Camps Sea Foods, Pacific Coconut Processing Corporation and American Can Company - to supply their plant requirements.

To obtain contracts from Starkist and Van Camp to supply the fishing fleets of Korea, Japan and F[illegible]mosa that service the two canneries by contract. There are pr[illegible] seventy five ships operating, with an increase to 125 s[illegible] expected by December.

To obtain the contr[illegible] the jet [illegible] American Airways. They presently make one weekly stop go[illegible] and coming from Australia to Los Angeles. Reduced fuel prices will divert two trips of PAA [illegible] Fiji-Australia [illegible] amoa-Austr[illegible]

To obtain the [illegible]y contract to fuel U S. Air[illegible] Australian and [illegible] Zealand Airforce.

To obtain the contract to supply all petroleum requireme[illegible] of Kingdom of Tonga on an FOB Pago Pago basis, and to fuel their merchant marine in Pago Pago Harbor.

EXHIBIT
SDY NO. 277
MARK GALANTY, C.S.R.

GENERAL INFORMATION

On the basis of talks held over a period of two years with the Governor of American Samoa, the Premier of Tonga, Pan American officials, the officers of Starkist Foods Inc., Van Camp and Pacific Coconut Processing Corp, there is a strong possibility of obtaining firm commitments to supply petroleum products in such quantities as to make feasible the construction of a Terminal Bulk Plant in Pago Pago, American Samoa.

A proposal has been submitted to all interested parties wherein petroleum products have been offered at a substantially lower price than those prices presently being paid for products of Standard Oil Co.

The following quoted prices, subject to the Singapore posted price, are listed herewith for comparison purposes.

	Proposed prices	Standard Oil Co.
JP1A Jet Fuel	17.00¢	22.50¢
Diesel (Light)	11.40	11.95
Diesel (Marine)	11.25	11.95
Kerosene	17 [illegible]	22.80
Mogas	16 [illegible]	19.30

The supplier of [illegible] prop[illegible] is The Summit Industrial Corporation, 120 Wa[illegible]k, New York 10005, Telephone Whitehall 47491, J[illegible]aw, President.

This company has been furnishing petroleum products to a number of foreign govern[illegible]ts, among which the largest one is Oil Field Organization of [illegible]and. [illegible]ve [illegible] selling oil to this customer since [illegible] The [illegible] the only Western Supplier selling petroleum [illegible] Indian Oil Corporation. They have two refineries [illegible]land and have an affiliate company, Thai Asphalt Manufac[illegible]ing Co, Ltd., which produces petroleum oil and lubricating oil.

Their references, Unoco, [illegible] Kong, and Union Oil Company indicated the highest degree of responsibility and honesty. Their financial responsibility has been investigated by Bank of America through the Auditing firm of George R. Funaro Co. of New York.

PLAINTIFF EXHIBIT NO. 278 FOR IDENT.
MARK GALANTY, C.S.R. #3019
SDY

BREAKDOWN OF PETROLEUM COSTS TO SAMOA

JP-1A - Based on 7,000,000 gallons per year to PAA

		Tank Investor	Operator
13 50¢	CIF Pago		
1.50	Tank Investor	$ 105,000.	
.50	Operator		$ 35,000.
1.50	Servicing PAA		105,000.
17.00¢	per gallon to PAA	Now- 3.5	

Light Diesel - Based on 4,000,000 gallons per year to Government

9.65¢	CIF	50 M	
1.25	Tank Investor	~~125,000.~~	20 M
.50	Operator		~~50,000.~~
11.40¢	per gallon to Government		

35 [illegible] 1.2.3

Marine Diesel - Based on 6,000,000 gallons per year - fishing fleet.

9.50¢	CIF		
1.25	Tank Investor	90,000.	
.50	Operator		30,000.
11.25¢	per gallon to fishing fleet		

Pearl Kerosene - Based on 300,000 gallons per year

13.55	CIF		
2.00	Tank Investor	6,0[illegible]	
1.50	Operator		4,500.
17.05¢	per gallon.		

Motor Gasoline - 93 octane - Based o[illegible]

12.80¢	CIF		
2.00	Tank Investor	1[illegible]	
1.50	Operator		9,000.
16.30¢	per gallon		

PLAINTIFF EXHIBIT NO. 279 FOR IDENT.
MARK GALANTY, C.S.R. #3019
SDY

INVESTMENT

$ 220,000.	110,000 bbl./tankage at $2.00/bbl. rule of thumb cost. Enclosed bid is less than $2.00/bbl.
95,000.	Cost of completed 150' concrete dock as per enclosed bid.
100,000.	Fueling buoys, flexible fueling hoses to dock, pipelines to tank battery, pipelines to powerhouse, to Starkist, American Can and Van Camp, pipeline back to dock to fuel fishing fleet, pumps, fitting and dock gear.
85,000.	Contingencies and barrel overage required.
$ 500,000.	Total Investment

PLAINTIFFS EXHIB.
SDY NO. 280 FOR IDENT.
MARK GALANTY, C.S.R.

PROFITABILITY AND PAYOUT TO TANK INVESTOR ON EXPENDITURE OF $500,000

JP-1A - Based on minimum of 7,000,000 gallons jet fuel to Pan American Airways and military contract - at 1 25¢ per gallon	$ 105,000
Light Diesel Fuel - Based on 4,000,000 gallons to Government powerhouse - at 1.25¢	~~125,000~~ 50M
Marine Diesel Fuel - Based on 6,000,000 gallons per year to Japanese, Korean and Formosan fishing fleet operating under contract to Starkist Foods, Inc and Van Camps - at 1.25¢ gallon	90,000
Pearl Kerosene - Based on 300,000 gallons per year to Government and native population at 2¢ per gallon.	6,000.
Mogas 93 Oct. - Based on 600,000 gallons per year to Government and population - 2¢ gal	12,000
TANK PAYOUT/YR.	338,000.
	- 75
	263,000

PLAINTIFFS EXHIB.
SDY NO. 281 FOR IDENT.
MARK GALANTY, C.S.R.

C O P Y.

GOVERNMENT OF AMERICAN SAMOA

PAGO PAGO, AMERICAN SAMOA

GENERAL SUPPLY DIVISION.

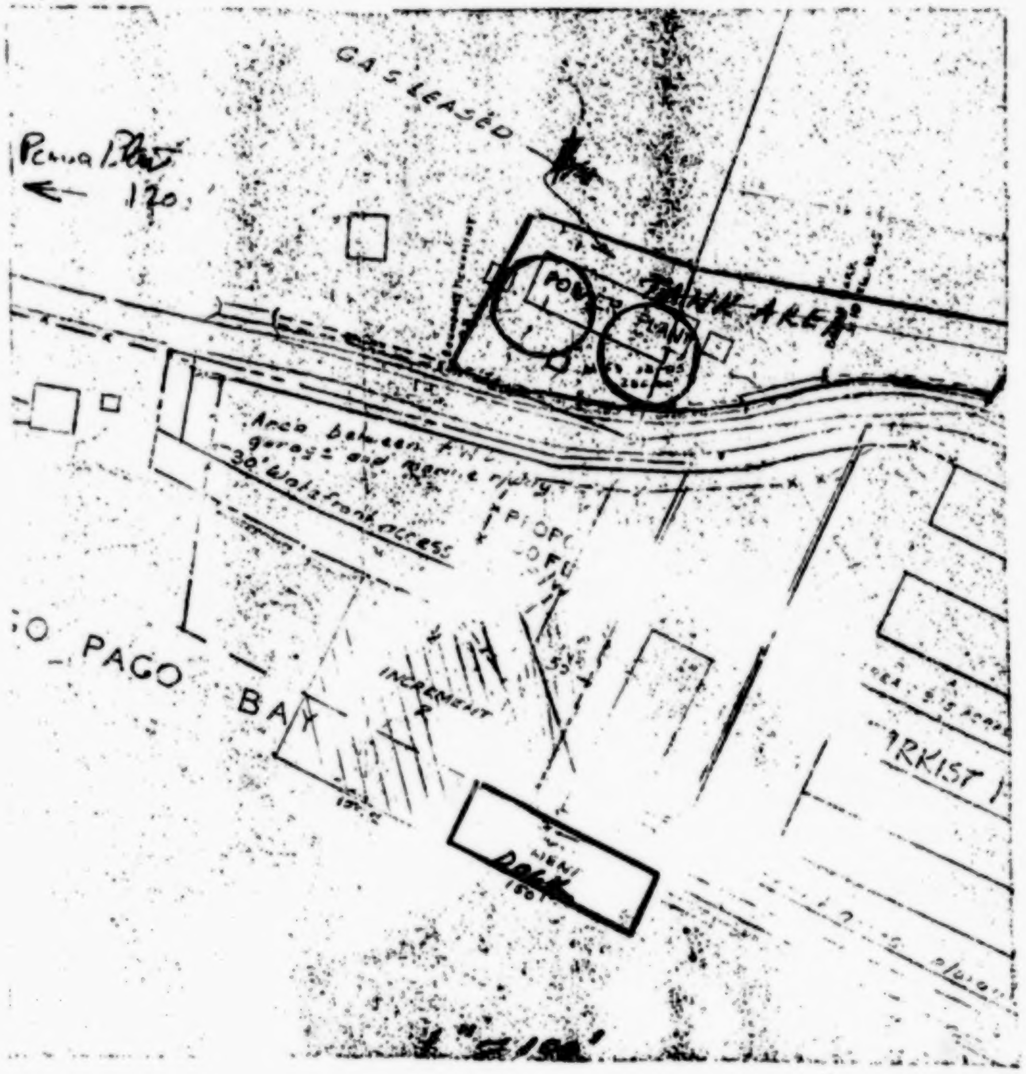
July 27, 1964.

SPECIFICATIONS AND PRICES OF FUEL, LUBRICANTS, OIL PURCHASED FROM STANDARD OIL OF CALIFORNIA.

PRODUCT	PRICE	
Chevron Gasoline, Gravity 60°F. 63.5, 82.8 Cetane Lead 2.7	.193	
Chevron Diesel Fuel, Gravity 60°F. 38.4, Flash Point 200°F. Viscosity 100°F. 3.73, 57 Cetane Colour - Yellowish, Pour Point +30°F. Carbon 0.05	.165 .168	C.T.T. *
White Gasoline, Gravity 58.8, 75.0 Octane Carbon 1, End .335	.303	
Pearl Kerosene, Chevron, Gravity 44.1 Viscosity [illegible]	.2[illegible]3	
Super HPM Delo Special, SAE 40 } 55 gal. drums	.83	NRSB
Super HPM Delo Sp. SAE 30 } 55 gal. drums	.788	RSB
Super HPM Delo Special SAE 20 } 55 gal. drums		
Socal S olvent, No.25, 55 gal. Drums	.79	Gal
HPM Delo Supercharged 3-30 Lube Oil,55 Gal.Drums	1.063	Gal
Chev. M/M Oil, ICH9, 55 gal. drums	1.017	Gal
Standard Thinner, No.350, 55 gal. Drums	.528	Gal
RPM M/Serv Gear Lube 90, 35 lb. containers	7.53	Can
RPM M/S Gearl Lube 140, 415 lb. drums	.20	lb.
Chevron Plastic Cement, 5 gal. cans	7.72	Can
Chevron Starting Fluid, 12 oz. cans to case	1.85	case
Chevron Grease, Heavy Duty, 120 lbs. to drum	44.25	Drm.

- Indicates Tank Truck Delivery - Cheaper
  Indicates customer Tank Truck Delivery.

SDY PLAINTIFF EXHIB. NO. 282 FOR IDENT. MARK GALANTY, C.S.R. #3019


GAS LEASED
Penna Plat
← 120
POWER PLANT
TANK AREA
Area between F.W.C. garage and marine railway
30' Waterfront access
PROPOSED FUEL
O PAGO BAY
INCREMENT
RKIST
DOCK
150'

SDY PLAINTIFF EXHIB. NO. 283 FOR IDENT. MARK GALANTY, C.S.R. #3019

WALKER-MOODY
CONSTRUCTION COMPANY, LTD.
Engineers • Contractors
Builders
2927 MOKUMOA STREET ★ TELEPHONE 892-781
HONOLULU, HAWAII

November 20, 1964

Mr. Raymond Turnbull
Pacific Coconut Processing Co.
8530 Wilshire Blvd.
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

We estimate that a 50' x 150' pier similar in construction to the one we constructed for Van Camp would cost in the neighborhood of $90,000.00.

Walter Lum and Associates, Structural Civil, Engineers and Soil Engineers, would design the pier using the data and experience we have accumulated and also their own on site investigation for $5,000.00.

We would suggest that you engage them as design engineer, and if our joint design/cost control efforts result in our being able to offer you a firm quotation within the above budget estimate, that you contract the work to our firm.

We are hopeful that we will be able to discuss this project with you on your next trip to Hawaii.

Aloha,

WALKER-MOODY CONSTRUCTION CO., LTD.

By
Ross W. Moody

RWM/es
c.c. Samoa Construction

PLAINTIFF EXHIB.
5D7 NO. 284 FOR IDENT.
MARK GALANTY, C.S.R. #3019

CHICAGO BRIDGE & IRON COMPANY
100 BUSH STREET
SAN FRANCISCO 4, CALIFORNIA
CABLE-CHIBRIDGE
TEL.-EXBROOK 2-4934
TWX-SF 612

November 30, 1964

In Duplicate

Pacific Coconut Processing Corporation
8530 Wilshire Boulevard, Suite 309
Beverly Hills, California

Attention: Mr. Ray Turnbull

Bell Pat
213
OX37610

Gentlemen: Re: Petroleum Storage Tanks
Pazo Pago, American Samoa

-42-

In accordance with our recent discussions, we are pleased to submit the following proposal for furnishing petroleum storage tanks erected in Pago Pago, American Samoa.

Accordingly, we propose to design, fabricate, deliver, and erect in open space on foundations furnished by owners in Pago Pago, American Samoa, the following petroleum tanks:

DESCRIPTION	PRICE EACH	TOTAL PRICE
1 - 20,000-Barrel (60' Diameter x 40' High) Horton Weathermaster Floating Roof Tank...	840,000	$58,750
2 - 35,000-Barrel (80' Diameter x 40' High) Cone Roof Storage Tank	1,470,000 $54,460	$108,920
1 - 10,000-Barrel ([illegible] Diameter x 40' High) Cone Roof Storage Tank..........................	420,000	$21,850
	2,730,000	
TOTAL..........................		$189,520

These tanks would be designed and constructed in strict accordance with American Petroleum Institute Specification 650 and in accordance with the attached specification sheets, marked S.F. Estimate 1594-A, 1594-B, and 1594-C. In addition to the tanks proper, the above-quoted prices include the accessory items as listed on the specification sheets.

Our prices do not include any metal preparation or painting. However, if you wish us to pickle and prime the exterior

PLAINTIFF EXHIB.
507 NO. [illegible] FOR IDENT.
MARK GALANTY, C.S.R. #3019

surfaces of the shell and roof, we would be pleased to do so for the following additional prices:

20,000-Barrel Weathermaster Roof Tank......	$1,065
35,000-Barrel Cone Roof Tanks...............	$1,385 Each
10,000-Barrel Cone Roof Tank................	$665

If you wish to have these tanks equipped with an automatic tank gage, Shand & Jurs 2006 or equal, the following prices would apply:

For Cone Roof Tanks.......	$520 Each
For Floating Roof Tank....	$720

We attach our General Specifications, Revision 4, which will apply and are hereby made a part of this proposal.

The above-quoted prices are based upon receiving an order for all four tanks quoted and are contingent upon your furnishing us well-drained readily accessible tank foundations with a minimum of 20' clear around each tank pad. We would expect you to furnish us these foundations in a sequence that would permit us to have continuous work. [illegible] cost of waiting time due to incomplete foundations or other delays within your [illegible] would be for your account.

Sales [illegible] taxes, gross receipts [illegible], and/or [illegible] tax [illegible] on the Chicago Bridge & [illegible] Company [illegible] or structure furnished [illegible] price quoted for that vessel or structure.

The prices quoted are contingent upon our performing this work along with other work which we currently have in Pago Pago. We anticipate completing the current work approximately August 1, 19[illegible] and would want to begin construction of these structures at that time. We estimate that it would require our field forces approximately 16 weeks to complete this construction after arrival of materials at the jobsite. In order to maintain this schedule, it would be necessary that we have your order by January 15, 1965.

All shipping and completion promises are contingent on delays beyond our reasonable control, including but not limited to strikes, governmental actions, and voluntary allocations by the steel mills.

PLAINTIFF EXHIB.
NO. 281 FOR IDENT.
MARK CALANTY, C.S.R. #5019
SDY

surfaces of the shell and roof, we would be pleased to do so for the following additional prices:

20,000-Barrel Weathermaster Roof Tank...... $1,065
35,000-Barrel Cone Roof Tanks............... $1,385 Each
10,000-Barrel Cone Roof Tank................ $665

If you wish to have these tanks equipped with an automatic tank gage, Shand & Jurs 2006 or equal, the following prices would apply:

For Cone Roof Tanks....... $520 Each
For Floating Roof Tank.... $720

We attach our General Specifications, Revision 4, which will apply and are hereby made a part of this proposal.

The above-quoted prices are based upon receiving an order for all four tanks quoted and are contingent upon your furnishing us well-drained readily accessible tank foundations with a minimum of 20' clear around each tank pad. We would expect you to furnish us these foundations in a sequence that would permit us to have continuous work. Any cost of waiting time due to incomplete foundations or other delays within your control would be for your account.

Sales taxes, use taxes, gross receipts taxes, and/or other similar taxes imposed on the Chicago Bridge & Iron Company or the purchaser with respect to any vessel or structure furnished under this proposal or the material therefor will be for the account of the purchaser and will be invoiced as additions to the price quoted for that vessel or structure.

The prices quoted are contingent upon our performing this work along with other work which we currently have in Pago [illegible] We anticipate completing the current work approximately [illegible] would want to begin construction of these [illegible] our [illegible] this schedule, it would be necessary that we have your order by January 15, 1965.

All shipping and completion promises are contingent on delays beyond our reasonable control, including but not limited to strikes, governmental actions, and voluntary allocations by the steel mills.

PLAINTIFF EXHIB.
NO. 282 FOR IDENT.
MARK CALANTY, C.S.R.
SDY

Pacific Coconut Processing Corporation — Page 3
Attention: Mr. Ray Turnbull — November 30, 1964

Terms of Payment: The contract price shall be paid in funds current at par in New York or Chicago, U.S.A., free of all collection charges, as follows:

a) Forty percent (40%) of the contract price shall be due when the material has been received by Chicago Bridge & Iron Company;

b) Twenty-five percent (25%) of the contract price shall be due on shipment of the material to the jobsite and before erection is started;

c) Twenty-five percent (25%) of the contract price shall be due on completion of the erection of the structure; and

d) The balance of the contract price will be due on completion of all other work required of Chicago Bridge & Iron Company and on test or inspection and acceptance of the structure, or if such test or inspection is delayed for any reason attributable to the purchaser, then, the balance of the contract price shall be due within thirty (30) days after the work is ready for test or inspection.

If the contract covers more than one structure, each structure or its equivalent tonnage shall be considered a unit and the terms of payment above stated shall be applied separately to each unit.

We wish to thank you for the opportunity of quoting on this requirement and sincerely hope that we have the pleasure of furnishing these structures to you.

Very truly yours,

CHICAGO BRIDGE & IRON COMPANY

R. A. Johrde
District Manager - Contracting

RAJ:aer
Enclosures
SP-1594

SDY

PLAINTIFF - EXHIB.
NO. 288 FOR IDENT.
MARK GALANTY, C.S.R.

SPECIFICATIONS FOR WELDED STORAGE TANKS

CAPACITY 35,000 Barrel — SPECIFICATIONS: API-650
DIAMETER 80'0" — HEIGHT 40'0"

ITEM	TYPE or MARK	MATERIAL	THICKNESS	TYPE of JOINT
BOTTOM	Flat	A-283-C	1/4"	Lap Weld
SHELL	RING NO. 1	A-283-C	0.454"	Butt Weld
	2	A-283-C	0.361"	Butt Weld
	3	A-283-C	0.268"	Butt Weld
	4	A-283-C	0.250"	Butt Weld
	5	A-283-C	0.250"	Butt Weld
	6			
	7			
ROOF				
	Cone	A-283-C	3/16"	Lap Weld

TOP ANGLE SIZE: 3" x 3" x 3/8"

FITTINGS:

NO.	SIZE	DESCRIPTION	NO.	SIZE	DESCRIPTION
1	20"	Shell Manhole	2	[illegible]	S[illegible]
1	20"	Roof [illegible]	1	6"	Roof [illegible]

ACCESSORIES:

One	[illegible] Stairway			
One	[illegible]'s Platform			

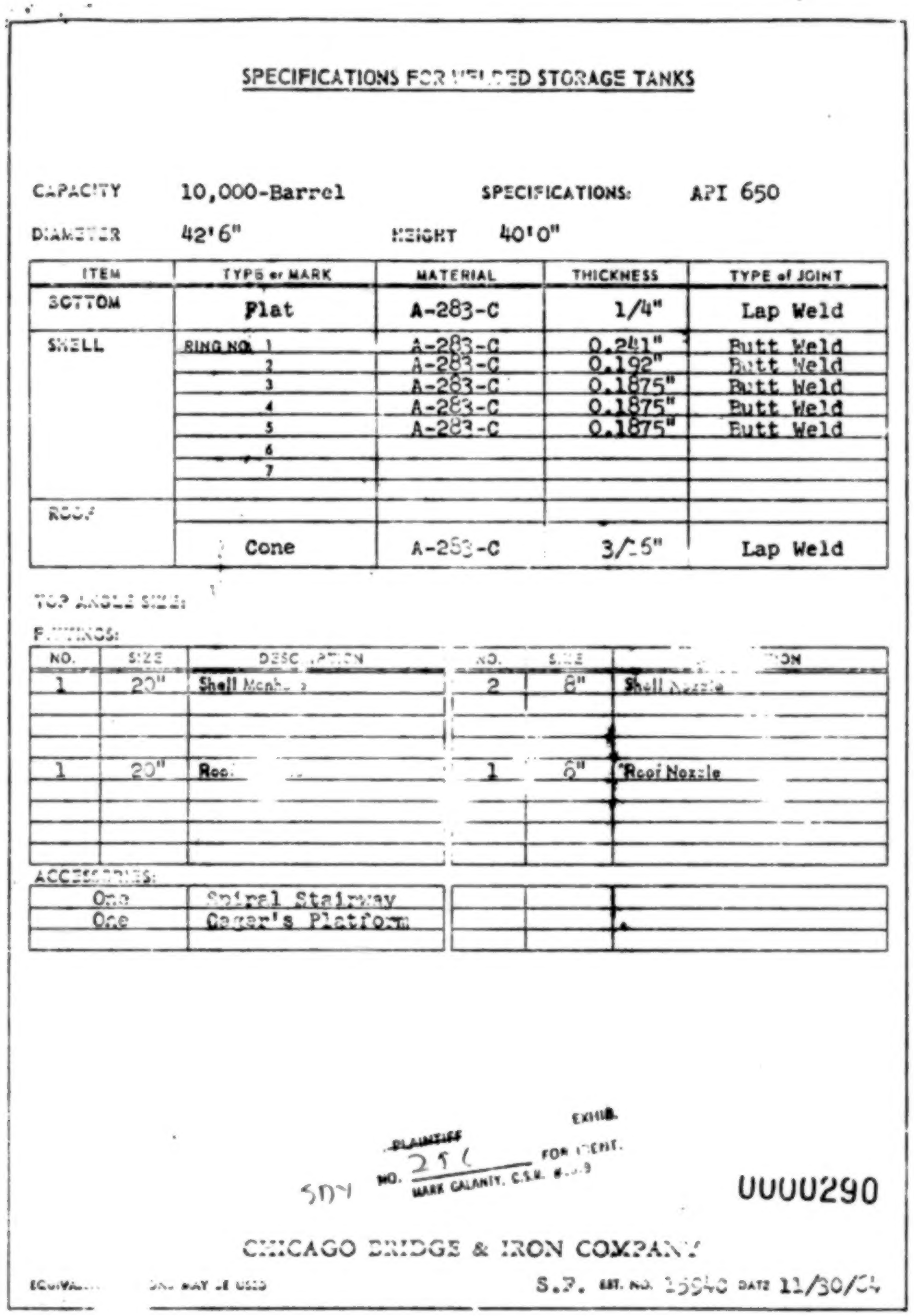
SDY

PLAINTIFF - EXHIB.
NO. 289 FOR IDENT.
MARK GALANTY, C.S.R.

CHICAGO BRIDGE & IRON COMPANY

[illegible] SECTIONS MAY BE USED — S.F. EST. NO. [illegible] DATE 11/30/64

FORM [illegible]



SPECIFICATIONS FOR WELDED STORAGE TANKS

CAPACITY 10,000-Barrel SPECIFICATIONS: API 650

DIAMETER 42'6" HEIGHT 40'0"

ITEM	TYPE or MARK	MATERIAL	THICKNESS	TYPE of JOINT
BOTTOM	Flat	A-283-C	1/4"	Lap Weld
SHELL	RING NO. 1	A-283-C	0.241"	Butt Weld
	2	A-283-C	0.192"	Butt Weld
	3	A-283-C	0.1875"	Butt Weld
	4	A-283-C	0.1875"	Butt Weld
	5	A-283-C	0.1875"	Butt Weld
	6			
	7			
ROOF				
	Cone	A-283-C	3/16"	Lap Weld

TOP ANGLE SIZE:

FITTINGS:

NO.	SIZE	DESCRIPTION	NO.	SIZE	DESCRIPTION
1	20"	Shell Manhole	2	8"	Shell Nozzle
1	20"	Roof [illegible]	1	6"	Roof Nozzle

ACCESSORIES:

One	Spiral Stairway			
One	Gager's Platform			

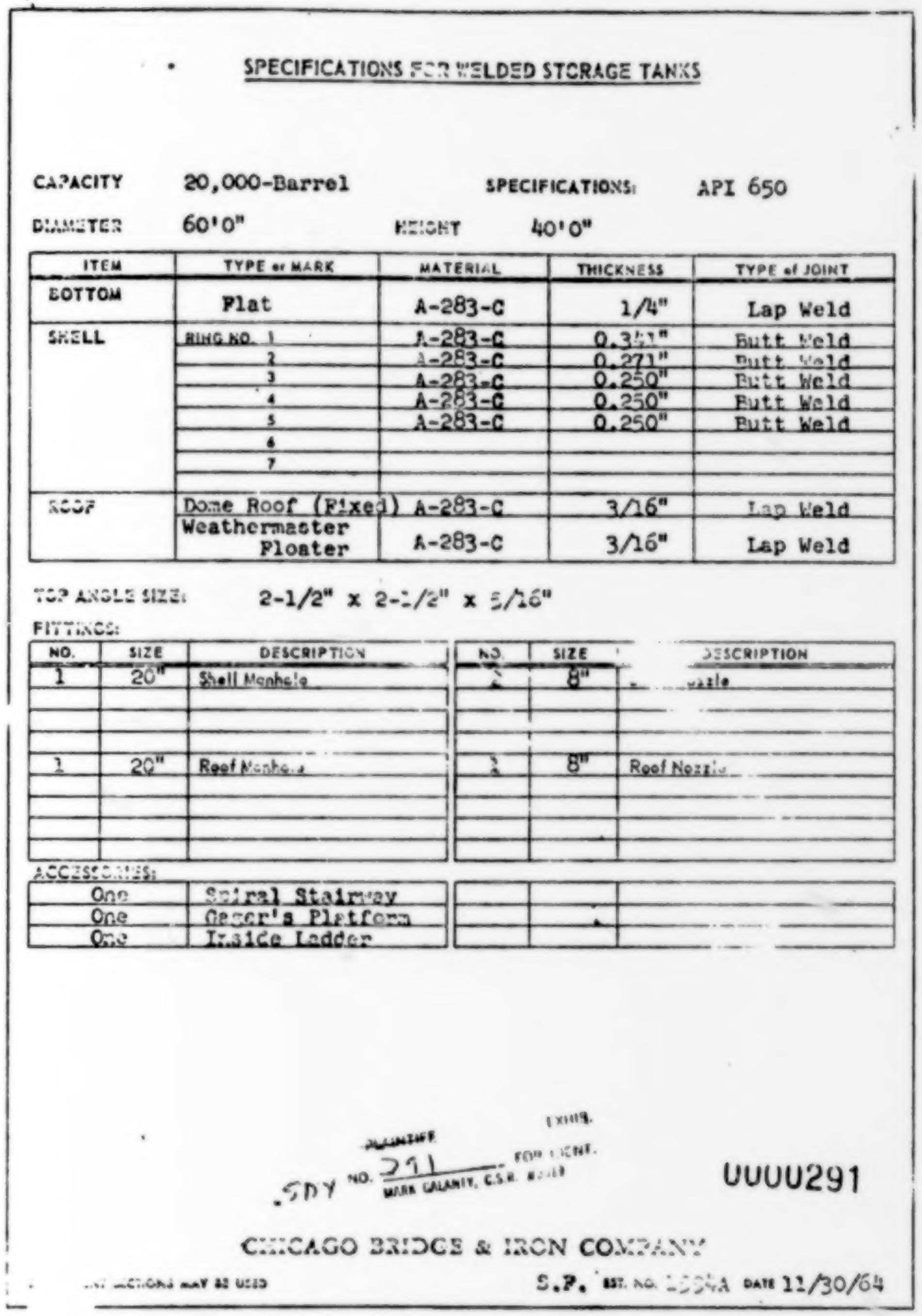
PLAINTIFF EXHIB.
SDY NO. 25[illegible] FOR IDENT.
MARK GALANTY, C.S.R. #[illegible]

0000290

CHICAGO BRIDGE & IRON COMPANY

EQUIVAL[illegible]ONS MAY BE USED S.F. EST. NO. 15940 DATE 11/30/64

FORM [illegible]



SPECIFICATIONS FOR WELDED STORAGE TANKS

CAPACITY 20,000-Barrel SPECIFICATIONS: API 650

DIAMETER 60'0" HEIGHT 40'0"

ITEM	TYPE or MARK	MATERIAL	THICKNESS	TYPE of JOINT
BOTTOM	Flat	A-283-C	1/4"	Lap Weld
SHELL	RING NO. 1	A-283-C	0.341"	Butt Weld
	2	A-283-C	0.271"	Butt Weld
	3	A-283-C	0.250"	Butt Weld
	4	A-283-C	0.250"	Butt Weld
	5	A-283-C	0.250"	Butt Weld
	6			
	7			
ROOF	Dome Roof (Fixed)	A-283-C	3/16"	Lap Weld
	Weathermaster Floater	A-283-C	3/16"	Lap Weld

TOP ANGLE SIZE: 2-1/2" x 2-1/2" x 5/16"

FITTINGS:

NO.	SIZE	DESCRIPTION	NO.	SIZE	DESCRIPTION
1	20"	Shell Manhole	2	8"	[illegible] Nozzle
1	20"	Roof Manhole	1	8"	Roof Nozzle

ACCESSORIES:

One	Spiral Stairway			
One	Gager's Platform			
One	Inside Ladder			

PLAINTIFF EXHIB.
SDY NO. 291 FOR IDENT.
MARK GALANTY, C.S.R. #[illegible]

0000291

CHICAGO BRIDGE & IRON COMPANY

[illegible]ECTIONS MAY BE USED S.F. EST. NO. [illegible]594A DATE 11/30/64

OCEANIC PETROLEUM CORPORATION

REPORT ON EXAMINATION

DECEMBER 31, 1963

SDNY ~~PLAINTIFF~~ EXHIB. NO. 292 FOR IDENT.
MARK GALANTY, C.S.R. #3019

GEORGE R FUNARO & CO.

GEORGE R. FUNARO & CO.
CERTIFIED PUBLIC ACCOUNTANTS
370 LEXINGTON AVENUE
NEW YORK 17, N. Y.
MURRAY HILL 3-8484

R. FUNARO, C. P. A.
BERGMAN, C. P. A.
OHEN, C. P. A.

May 14, 1964

Board of Directors
Oceanic Petroleum Corporation
Panama City, Panama

Gentlemen:

The fiscal year of Oceanic Petroleum Corporation ended on November 30, 1963, for which period the annual report had been previously submitted.

This report covers the twelve month period - January 1, 1963 to December 31, 1963.

George R. Funaro

SDNY ~~PLAINTIFF~~ EXHIB. NO. 293 FOR IDENT.
MARK GALANTY, C.S.R. #3019

OCEANIC PETROLEUM CORPORATION

BALANCE SHEET

DECEMBER 31, 1963

ASSETS

Current Assets		
Cash in Banks		$ 112,480.72
Accounts Receivable		1,984,145.35
Other Receivables		116,617.70
TOTAL CURRENT ASSETS		2,213,243.77
Accounts with Affiliated Companies		
Summit Industrial Corporation (Panama)	$1,882,992.09	
U.S. Summit Corporation (Panama)	178,426.00	
Oceanic Process Corporation	51,612.37	
U.S. Summit Corporation	230,000.00	
Peninsula Petroleum Corporation	75,832.28	2,418,862.74
Investment - Thai Asphalt Mfg. Co.		242,130.74
Loans Receivable		319,762.80
TOTAL ASSETS		$5,194,000.05

PLAINTIFF'S EXHIBIT
SDY NO. 294 FOR IDENT.
MARK GALANTY, C.S.R. #3319

OCEANIC PETROLEUM CORPORATION

BALANCE SHEET

DECEMBER 31, 1963

LIABILITIES

Accounts Payable	$2,206,536.30
Accrued Expenses	19,369.93
Loans Payable	22,000.00
TOTAL LIABILITIES	$2,247,906.23

CAPITAL

Capital Stock		$ 1,000.00	
Surplus			
Balance	$2,300,406.11		
Net Profit for the year - January 1, 1963 - December 31, 1963	644,687.71	2,945,093.82	
TOTAL CAPITAL			2,946,093.82
TOTAL LIABILITIES AND CAPITAL			$5,194,000.05

PLAINTIFF'S EXHIBIT
SDY NO. 295 FOR IDENT.
MARK GALANTY, C.S.R. #3319

OCEANIC PETROLEUM CORPORATION

STATEMENT OF PROFIT AND LOSS

JANUARY 1, 1963 TO DECEMBER 31, 1963

Sales		$8,946,688.65
Cost of Sales		
Purchases	$6,415,544.54	
Charter Costs	1,455,552.22	
Other Costs	104,383.69	
Financing Charges	104,314.77	
COST OF GOODS SOLD		8,169,795.22
GROSS PROFIT		$ 776,893.43
Commissions Earned		45,660.88
TOTAL INCOME		$ 822,554.31
Expenses		
Consulting and Service Fees	$ 153,825.00	
Traveling, Office and Miscellaneous	24,041.60	
TOTAL EXPENSES		177,866.60
NET PROFIT		$ 644,687.71

SDV NO. 29C
MARK GALANTY, C.S.R.

BRIEFING ON SAMOA TERMINAL

1. Tank Battery Site
    a. Consideration-Rental-Portion now leased by GAS.
    b. Preparation-costs to be borne by Public Works.
    c. Timing-Expediting-Time is of essence to coordinate tank construction.
    d. Excavated material to PCPC waterfront area we designate.

2. Easements
    a. From waterfront to tanks through PCPC, across road.
    b. From tanks to Government powerhouse.
    c. From tanks to Starkist, Van Camp.

3. Governor's request to lower prices after amortization.

4. Pan American Contract - most important.
    a. PAA wants lower prices
    b. Udall wants to move Pacific hub to Samoa
    c. Governor wants more flights to service hotel.
    d. Governor and Intercontinental Hotels (PAA) to push.

4. Industrial Incentive Act.

5. Minimum quantities in contract.

6. Alternative supplier in event of war.

7. Gas Station Site - Past Rainmaker- conjunction with Motor Pool.

8. Lower prices if Standard leaves before our investment.

9. No port charges for tanker - no licenses - no fees.

10. Preliminary agreement - all parties -before Lee returns to Pago.
    a. Vince Evich says fish companies ready. Lee to expedite and force agreement. Companies waiting for Lee to push deal.

11. Free tank site at Tafuna airport for JP-1A fuel.

~~PLAINTIFF~~ EXHIB.
SDV NO. 32C FOR IDENT.
MARK GALANTY, C.S.R.

BRIEFING ON SAMOA TERMINAL

1. Tank Battery Site
    a. Consideration-Rental-Portion now leased by GAS.
    b. Preparation-costs to be borne by Public Works.
    c. Timing-Expediting-Time is of essence to coordinate tank construction.
    d. Excavated material to PCPC waterfront area we designate.
    e. Govt to set buoys -
2. Easements
    a. From waterfront to tanks through PCPC, across road.
    b. From tanks to Government powerhouse.
    c. From tanks to Starkist, Van Camp.

3. Governor's request to lower prices after amortization. (Govt diesel only)

4. Pan American Contract - most important.
    a. PAA wants lower prices
    b. Udall wants to move Pacific hub to Samoa
    c. Governor wants more flights to service hotel.
    d. Governor and Intercontinental Hotels (PAA) to push.

4. Industrial Incentive Act.

5. Minimum quantities in contract.

6. Alternative supplier in event of war.

7. Gas Station Site - Past Rainmaker- conjunction with Motor Pool.

8. Lower prices if Standard leaves before our investment.

9. No port charges for tanker - no licenses - no fees.

10. Preliminary agreement - all parties -before Lee returns to Pago.
    a. Vince Evich says fish companies ready. Lee to expedite and force agreement. Companies waiting for Lee to push deal.

11. Free tank site at Tafuna airport for JP-1A fuel.

PAA - re: Intercontinental - operates
Hotel - (

M. Mangum has talked to PAA officials re: more
to Pago -

321

BRIEFING ON SAMOA TERMINAL

1. Tank Battery Site
    a. Consideration-Rental-Portion now leased by GAS.
    b. Preparation-costs to be borne by Public Works.
    c. Timing-Expediting-Time is of essence to coordinate tank construction.
    d. Excavated material to PCPC waterfront area we designate.
    e. Govt to set buoys -
2. Easements
    a. From waterfront to tanks through PCPC, across road.
    b. From tanks to Government powerhouse.
    c. From tanks to Starkist, Van Camp.

3. Governor's request to lower prices after amortization. (Govt diesel only)

4. Pan American Contract - most important.
    a. PAA wants lower prices
    b. Udall wants to move Pacific hub to Samoa
    c. Governor wants more flights to service hotel.
    d. Governor and Intercontinental Hotels (PAA) to push.

4. Industrial Incentive Act. (OIL deal would not pay Taxes)

5. Minimum quantities in contract.

6. Alternative supplier in event of war.

7. Gas Station Site - Past Rainmaker- conjunction with Motor Pool.

8. Lower prices if Standard leaves before our investment.

9. No port charges for tanker - no licenses - no fees.

10. Preliminary agreement - all parties -before Lee returns to Pago.
    a. Vince Evich says fish companies ready. Lee to expedite and force agreement. Companies waiting for Lee to push deal.

11. Free tank site at Tafuna airport for JP-1A fuel.

PAA - re: Intercontinental - operates
Hotel - (

M. Mangum has talked to PAA officials re:
to Pago -

EXHIBIT
FOR IDENT.
SDY NO. 322
MARK GALANTY, C.S.R. #3019

Actual doodling of J.T. Shaw, President of Summit Industrial Corp.

He was going to supply the oil to us in Samoa.

Tankage 250,000 bbls @ 2.00 =	$500,000
pipe line	$100,000
Sub-terminal	$30,000
pier & jetty	$50,000
loading facilities	$30,000
pumps	$10,000
1 Barge self propelled 300 Ton 1 " non-propelled	150,000
Contingency	50,000
	$920,000
Interest 6%	210,000
	1130,000

depreciation 1,130,000 ÷ 7 = $161,000 per year

300 305

Stock for more than $60,000.

Esso — Hono — C.H. Abrahams [illegible]
Olsen or Ditter
Supt Pac Oper. Reg Mgr.

Appt - Gov. Lee 9:30 AM

1. Split cost of LSD — ?
2. Letter from Lee 300,000 yds plus hotel site or 350,000 cu/yds. - Dredging man salary (not over $100 day) + transportation.
3. Tafuna land - Immediate survey and advertisement.
4. Tafuna completion will stockpile any amount at 53¢ yd.
5. Save $2 million by not fixing Pago dock.
6. Use of cat for 1 hr to clean old road - discuss lease 1/8 apts (3 apts over) - 55 years. Peterson coming in.
7. Our front - we make dock and fill - set back 30 ft from water - no consider - need room for boiler
   Same base price
8. Tonga crew 24 for dredging - approved?
9. See Tafuna this afternoon.
10. ? quarter quitclaim from Esso -
11. Offer Claussen use of our dredge after 30 April. Ours can do faster job - free at 1.00 yd.
12.

See Baydowich - dredge deal.

248 EXHIBIT FOR IDENTIFICATION 3-25-75

2:45 appt – Lee –

1. Clausen talk
   1. Dredging — 1. Merritt Chapman Scott – $300,000. + mobilization 2. Asau Bay first – then Apia harbor.
   2. Lumber
      a) Possible sawmill
      b) Banana crates
      c) Bringing back finished products – "at cost"
         ① Ties two Samoa's together – mutual benefits
      d) Work out taxes (export)
      e) Permission for January timber cruise.
   3. Petroleum products – another Samoa tie-in
   4. Michael Meredith – Asst. Secretary to the Govt.
   5. Governor Lee to push deal.
   6. Two Australian firms made proposal for logs – we can beat them out.

Def. EXHIBIT
FOR IDENTIFICATION
D. S. VINT
9-25, 1975

MOBIL

MR. CHARLES SMALL, OPERATIONS MANAGER
AUSTRALIA

BE IN PAGO AFTER 7/1/64

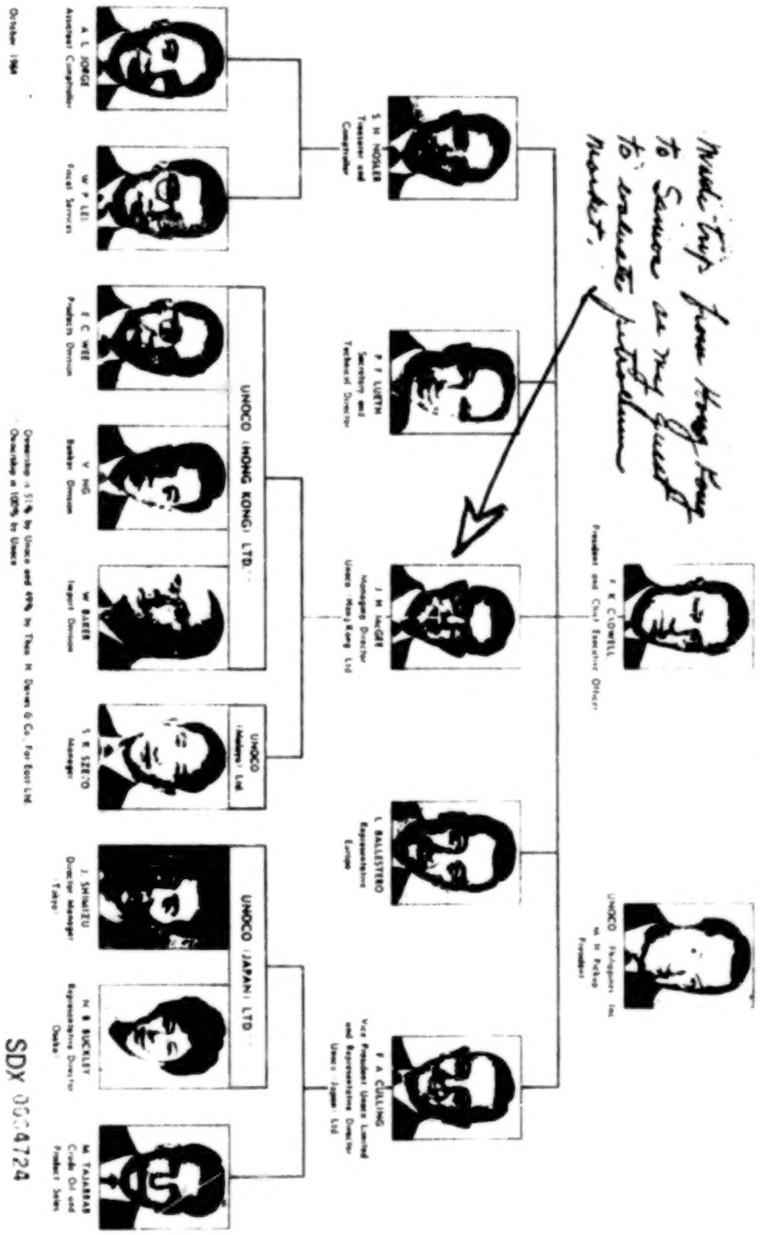
CABLE ADDRESS:

MOBILOIL
MELBOURNE, AUSTRALIA

MARK FOR "SMALL"

Turnbull Rep
Dft 50A 0001649
N.P.
12-2-75

ORGANIZATION OF UNOCO LIMITED AND SUBSIDIARIES


F. K. COWELL
President and Chief Executive Officer
UNOCO Philippines Inc
W. H. Pickup
President
S. H. HOSLER
Treasurer and Comptroller
P. F. LUETH
Secretary and Technical Director
J. H. McGEE
Managing Director
Unoco (Hong Kong) Ltd
L. BALLESTERO
Representative
Europe
F. A. CULLING
Vice President Unoco Limited and Representative Director
Unoco (Japan) Ltd
A. L. JORGE
Assistant Comptroller
W. P. LEE
Fiscal Services
UNOCO (HONG KONG) LTD.
F. C. WEE
Products Division
V. NG
Bunker Division
W. BAKER
Import Division
UNOCO (Malaya) Ltd
S. K. SZETO
Manager
UNOCO (JAPAN) LTD.
J. SHIMIZU
Director Manager
Tokyo
N. B. BUCKLEY
Representative Director
Osaka
M. TAJARBAB
Crude Oil and Product Sales

Made trip from Hong Kong to Saigon as my guest to evaluate petroleum market.

Ownership is 51% by Unoco and 49% by Theo. H. Davies & Co. Far East Ltd.
Ownership is 100% by Unoco

October 1964

Unoco (Malaya) Limited

AN OVERSEAS MARKETING SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

J. H. McGEE
VICE PRESIDENT

[illegible] FLOOR, AMERICAN INTERNATIONAL BUILDING,
1, ROBINSON ROAD,
SINGAPORE, 1.
TELEPHONE [illegible]
CABLE ADDRESS: "PETROLEUM SINGAPORE"

Dear Ray;

Hope you arrived home on schedule and somehow found time to get a little rest.

I arrived in Sydney on time and had a busy day making calls on people who had answered an advertisement I had put in the local paper a week earlier.

Called on a company selling used fork lifts. They are sending me complete details and I will forward direct to you. One of the lifts is a 6000 lbs. ford diesel, 12 foot lift, 6ft frames. They were asking £1,900.00 which is slightly over $4,000.00 FAS. Sydney. Will check price here and in Manila as well.

Went by to pick up my bicycle but someone had borrowed it so took in a night club alone and left for Singapore

Didn't want to argue in front of your friends about paying my hotel expense but there is no reason for you to do this. To get even I am sending you something

Unoco (Malaya) Limited

AN OVERSEAS MARKETING SUBSIDIARY OF UNION OIL COMPANY OF CALIFORNIA

J. H. McGEE
VICE PRESIDENT

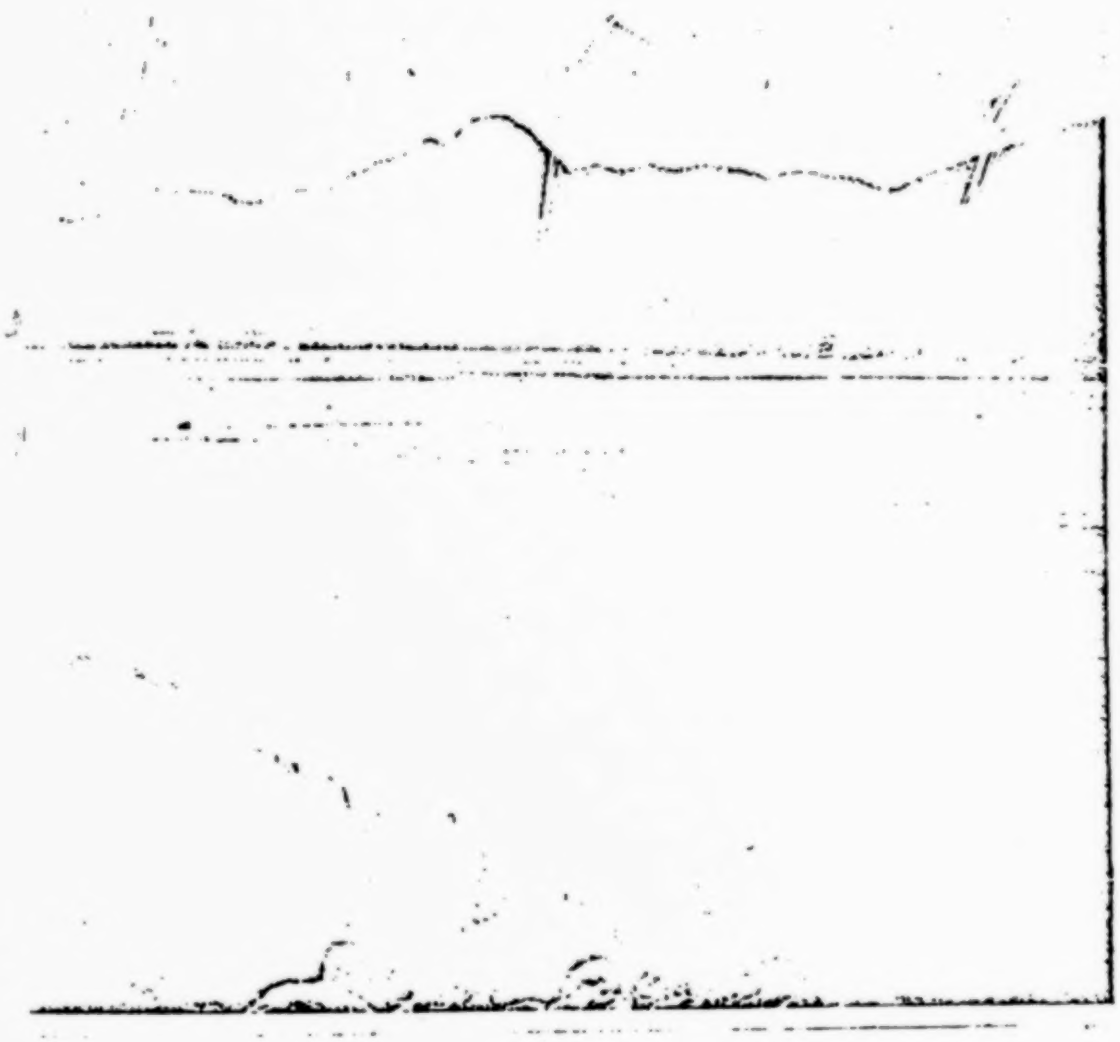
[illegible] FLOOR, AMERICAN INTERNATIONAL BUILDING,
1, ROBINSON ROAD,
SINGAPORE, 1.
TELEPHONE 72906-7
CABLE ADDRESS "PETROLEUM SINGAPORE"

you and Warren can use.

Will send it to Pacific Coconut Processing Corp, Samoa as equipment for the plant so it should be tax exempt. Will alert Warren to be on the lookout for it.

Thanks for all your help and sincerely hope I can submit the proposal in sufficient clarity to assure fast approval.

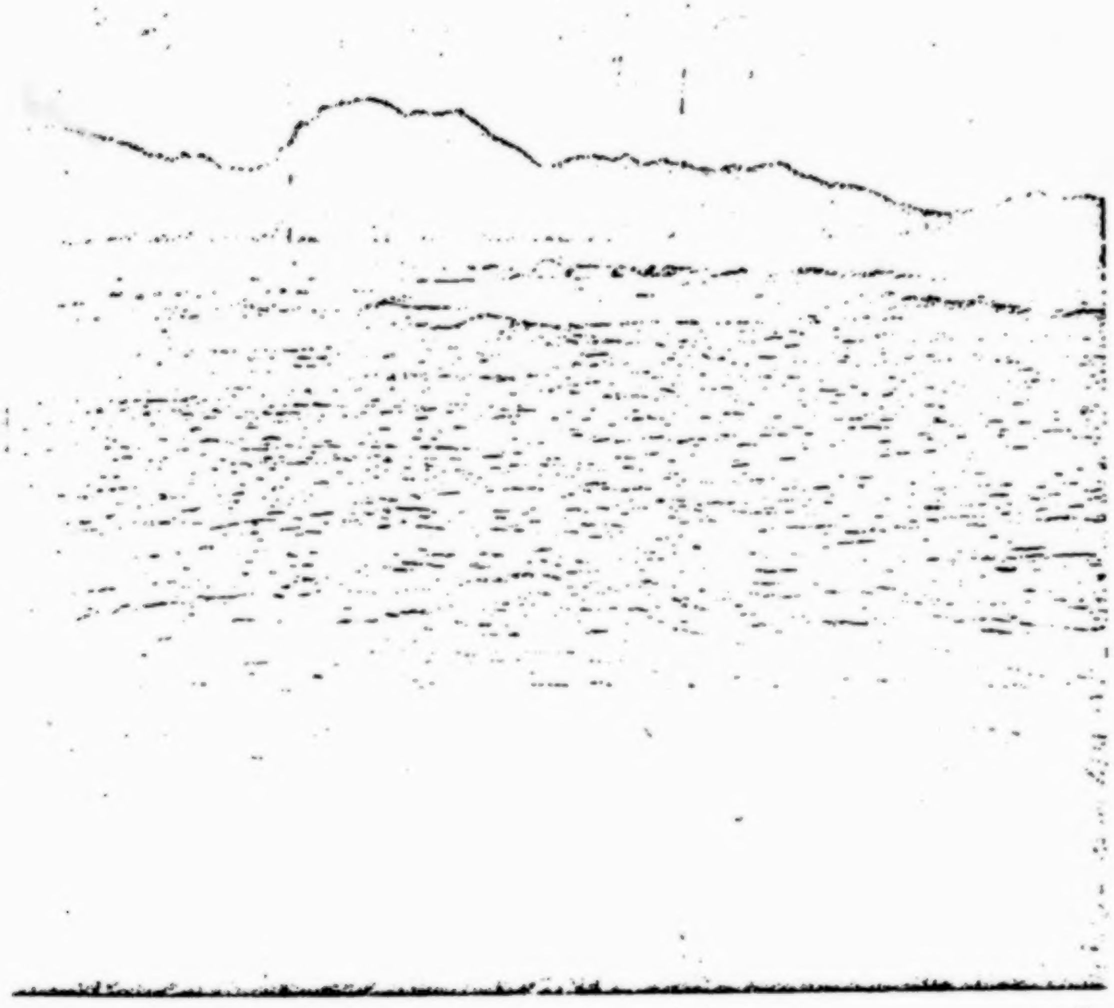
Regards
Jimi



oking into Ku'Uli Lagoon fron sea entrance. The Bay turns right past Coconut int (clump of palms across present channel). At low tide the tidal flats are posed.

(Return pictures after use)

Place pictures alongside of each other for general panorama



rance to Nu'Uli Lagoon (Tafuna). Channel would be widened, buoyed and pened. Tankers could lie offshore and unload petroleum product via pipeline come through channel to dock and turning basin .

Februar, 17, 1964

To: Ray Turnbull

From: Don Schmuck

Subject: Samoa Dredging and Land Reclamation

1. Our computations, based on a fill of 85.5 acres to a height of about 7 or 8 feet above sea level from a variable depth of water (yet to be determined) indicate a fill requirement of about 2,000,000 cubic yards. We have laid out two alternatives for dredging: one with an entrance channel 400 feet wide and a turning basin in the inner harbor; and a second plan with reduced dimensions including a channel 200 feet wide. The first plan would result in nearly 4,000,000 cubic yards of dredging which would produce surplus fill. The alternate plan would dredge about 2,800,000 cy which would be about minimum for a useful harbor. Both plans would dredge to 35 feet.

2. Based on the use of your dredge, the following rough cost figures can be used for your purposes:

   a. Reclaimed land will cost you about 54c per square foot of useful surface. For the 3,966,000 sq. ft., then, the cost will be about $2,000,000. This does not include cost of purchasing and moving dredge, but does include total cost of operations.

   b. Any rip rap would be an additional cost. (It appears that the coral fill would be reasonably stable at about 45° or better. This means that a dock about 30 feet wide would give you 35 feet depth along side).

   c. A concrete dock 30 feet wide can be built for about $600 per linear foot. If you faced the entire reclaimed water front with a continuous concrete dock, your costs would be about $3,000,000.

   d. Sheet piling driven at water's edge and backed with fill can be done at substantially less cost (perhaps half as much) and might be preferable except for those concrete docks required by your tenants at specific locations.

   e. Due to the limited capacity of the small dredge, the project will last from 19 to 24 months. A large dredge, of course, could do it in half the time, but your mobilization costs would be heavy.

   f. The proposed dredge will require 4 or 5 feet of water and it appears likely it could enter Tafuna Bay without extensive work on the channel.

D. M. Schmuck

DMS/mp

P.C.PC. GENERAL LETTERS FILE

Turnbull Dep.
Deft. SDX 001636
J.M. Valdez, N.P.
12-2-75

PACIFIC COCONUT INFO

Turnbull Dep.
Deft SDX 001641
J.M. Valdez, N.P.
12-2-75

MISCELLANEOUS CORRESPONDENCE
R.C.T.

Turnbull Dep
Dft's Dx 0001642
J M Valdez N.P.
12-2-78

PAGO-PLANT DOCK PRINTS
WALKER-MOODY CO.

D

Turnbull Dep.
Dft's Dx 0001643
J M Valdez N.P.
12-2-78

MOBIL PETROLEUM CORPORATION

Correspondence

Turnbull Dep.
Deft SOX 0001544
J.M. Valdez, N.P.
12-2-75

UNOCO
CORRESPONDENCE AND SURVEY

Turnbull Dep.
Deft SOX 0001545
J.M. Valdez, N.P.
12-2-75

OK.

SUMMIT INDUSTRIAL CORPORATION
CORRESPONDENCE

Turnbull Dep.
Deft's Ex 0001646
J M Valdez, N.P.
12-2-75

COX
12-2-75

PETROLEUM - CONFIDENTIAL
[illegible] - 1976

Turnbull Dep
Deft's Ex 0001647
J M Valdez, N.P
12-2-75

CORRESPONDENCE - GOV. LEE
Year 1965 -

Turnbull Dep
Deft 503 0001038
[illegible]
12-2-75

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3. New Documents: Produced Before, but Not by Turnbull or McCook

January 31, 1963

Mr. H.W. Sanders
Union Oil Center
Los Angeles, California

Re: Union Oil Bulk Plant at Pago Pago, American Samoa

Dear Mr. Sanders:

As you requested at our meeting earlier in the week, I am sending you herewith certain detailed information pertaining to the commercial advisability of establishing Union Oil bulk plant facilities at Pago Pago, American Samoa.

It is my understanding that the construction of said facilities and leasing the same to a competent local operator would properly come under the jurisdiction of Unoco, Ltd., a Union Oil subsidiary, with headquarters in Hong Kong. Consequently, you have told me that you propose sending the information supplied herewith to Mr. Cadwell, head of the Unoco, Ltd., offices in Hong Kong, so that if sufficient interest is generated on the part of Unoco, Ltd., arrangements could be made for me to meet with Mr. McGee, of Mr. Cadwell's office, and the Governor of American Samoa at Pago Pago at the time of my next business trip to the island, probably during early March, 1963.

As I told you at our meeting, the industrial growth of American Samoa has been substantial during the past several months, and the general economic picture for the future is indeed bright. On January 22, 1963, final arrangements were concluded with the Government of American Samoa whereby plant sites were created and agreed upon for the location of the new Star Kist tuna cannery (Star Kist is to be merged with H.J. Heinz, subject to stockholder approval), the American Can Company plant which will supply cans to Star Kist and the existing Van Camp tuna canneries, and our own Pacific Coconut Processing Corporation facility. The addition of these three new major companies can only serve to give a considerable boost to the Samoan economy in terms of expanded employment opportunities and an increased standard of living, because up until now, the only industry located at American Samoa has been the Van Camp tuna cannery.

In terms of increased consumption of petroleum products, there will now be a total of approximately 200 Japanese fishing boats using Pago Pago as their home port for the delivery of tuna, these boats being 135-foot, diesel-powered fishing craft all contracted for in Japan. The increase in the number of Japanese fishing boats will be approximately 100% in that Van Camp has been contracting for about 100 Japanese boats to the present date.

In addition to the increased number of tuna boats operating out of Pago Pago, other shipping facilities which represent potential customers of petroleum products are as follows:

~~PLAINTIFF~~ STDY EXHIB.
NO. 93-96 FOR IDENT.
MARK GALANTY, C.S.R. #3018
9-23-75

(a) The Matson Navigation Company, The General Steamship Company, and The Union Steamship Company all have freighters and cruise ships which make Pago Pago a regular port of call. General Steamship is about to add an additional freighter, and the Matson Navigation Company has already added an additional freighter just within the past few months.

(b) The Tonga Copra Board will be operating two freighters on regular weekly runs to Pago Pago; one of these freighters has not been put into service yet but will be in operation before the end of this year.

(c) The Government of American Samoa operates a number of inter-island diesel-powered ships, and also some daily-running personnel boats of the Navy vintage LCl, LCM and LCVP.

(d) Personnel and freight ships are already in operation on a regular basis between Western Samoa and Pago Pago.

In view of the foregoing, marine delivery facilities would seem definitely justified near or adjacent to the industrial complex being created at the area indicated on the survey map enclosed herewith. In our preliminary discussions with the Governor, two possible sites were suggested for the establishment of such a marine facility in close proximity to the new industrial complex. Space could also be made available under a long-term lease from the Government of American Samoa for the location of bulk tanks near or adjacent to the proposed marine delivery station.

Apart from the market for marine fuels, a substantial existing market with expanding future potential is also available for aviation fuels and lubricants.

The Government, as shown on the enclosed aerial photograph, has recently completed a 12,000-foot jet landing strip at a cost of approximately $9 million, thereby bringing Pago Pago within easy reach of the Hawaiian Islands (4 hours 45 minutes flying time) by jet clipper. At the present time, the Pago Pago Airport is served by Pan American jets and also by TEAL and Polynesian Airlines. South Pacific Airlines has coverted their operation of Constellations between Honolulu, Pago Pago and Tahiti to jet service from San Francisco and Los Angeles to Pago Pago and Tahiti via Honolulu, such service to commence immediately upon receipt of final C.A.B. route approval. Furthermore, Secretary of the Interior Udall has publicly announced that TAI will hereafter be required to stop at Pago Pago, as he intends to justify the expenditure of federal funds for the new jet strip by making Pago Pago the hub of South Pacific air traffic instead of Fiji.

Upon completion of the new hotel facilities planned for this year and next, increased tourist traffic to Pago Pago will lead to a substantial increase

PLAINTIFF EXHIB.
NO ____ FOR IDENT.
MARK GALANTY,

in existing air traffic and the establishment of expanded feeder facilities to many of the neighboring islands. For example, negotiations are now in progress between Tonga, Western Samoa and South Pacific Airlines for the purpose of establishing specified feeder facilities. Consequently, the market for aviation fuels and lubricants, although relatively new, should expand considerably in the immediate future. As indicated on the enclosed map, aviation delivery facilities could be established on a long-term government lease at the airport, these facilities to be supplied from off-shore tanker loading lines.

It should also be noted that a substantial increase in the consumption of ordinary fuels for motor vehicles can be anticipated. As the development of American Samoa proceeds with the construction of new industrial, commercial, hotel and government facilities, the demand for gasoline and other petroleum products for automobiles, trucks, buses and construction equipment must, of necessity, increase substantially. The Governor has obtained in Washington two of the biggest budgets ever for this year and next - $12 million for each year. A substantial portion of these government funds is earmarked for an extensive road building program designed to make most of American Samoa readily accessible to all types of motor vehicles.

At the present time, the only existing bulk plant facilities at Pago Pago are those belonging to Standard Oil of California. As shown on the enclosed map, these facilities are particularly badly located in terms of the planned industrial and commercial expansion discussed above. Furthermore, the Government of American Samoa is most anxious to establish additional bulk plant facilities in the name of a second company due to Standard Oil's monopoly position which has not led to a very satisfactory relationship with either the Government or the local Samoan consumers. As a result, the Governor has engaged in serious negotiations with Mobile of New Zealand, who have indicated considerable interest, but due to the efforts of my client, Raymond C. Turnbull, President of Pacific Coconut Processing Corporation, a second bulk plant franchise could be obtained from the Governor for Union Oil, or its Unoco, Ltd., subsidiary, in the event such a proposition appears attractive.

In order to justify the establishment of a second bulk plant franchise at Pago Pago on the basis of present business and not just for the sake of creating competition for Standard Oil, the Governor has supplied figures which are enclosed herewith showing the total imports of various types of petroleum products during the two immediately-preceding fiscal years. Of course, these figures do not include the last six months of 1962 or the first month of 1963 which period should reflect a substantial increase in most categories. Moreover, even on the basis of completely up to date figures, much of the industrial, commercial and other expansion indicated above would not be reflected. As a result, the figures supplied are only given to indicate the existence of an already substantial market without taking into account at all the future potential from just the expansion now contemplated. Additional expansion and increased future potential, while perhaps speculative as to degree at this writing, is sure to follow from the expansion now planned.

If Union Oil, through its subsidiary Unoco, Ltd., is interested in studying further the prospects of American Samoa as a potentially booming new market outlet, I would appreciate your having Mr. Cadwell so inform me at his earliest convenience so that arrangements can be made to meet with his Mr. McGee in Pago Pago at a time when the Governor will be present, hopefully during early March of this year. In addition, I will be glad to offer my services and the good offices of my client, Mr. Turnbull, in helping with the negotiation of a long-term land lease from the Government of American Samoa, the obtaining of a competent local operator for a new bulk plant facility, and with whatever governmental, legal or other matters which may rise in obtaining a satisfactory new bulk plant franchise at Pago Pago.

Meanwhile, if you or Mr. Cadwell have any questions pertaining to this matter, please do not hesitate to get in touch with me.

With best and warmest regards,

Very sincerely,

REESE H. TAYLOR, JR.

Enclosures:
Map
Aerial Photograph
Exhibit

REESE H. TAYLOR, JR.
ATTORNEY AT LAW
8530 WILSHIRE BOULEVARD
SUITE 309
BEVERLY HILLS, CALIFORNIA
OLYMPIA 2-0014

January 31, 1963

Mr. H.W. Sanders
Union Oil Center
Los Angeles, California

Re: Union Oil Bulk Plant at Pago Pago, American Samoa

Dear Mr. Sanders:

As you requested at our meeting earlier in the week, I am sending you herewith certain detailed information pertaining to the commercial advisability of establishing Union Oil bulk plant facilities at Pago Pago, American Samoa.

It is my understanding that the construction of said facilities and leasing the same to a competent local operator would properly come under the jurisdiction of Unoco, Ltd., a Union Oil subsidiary, with headquarters in Hong Kong. Consequently, you have told me that you propose sending the information supplied herewith to Mr. Cadwell, head of the Unoco, Ltd., offices in Hong Kong, so that if sufficient interest is generated on the part of Unoco, Ltd., arrangements could be made for me to meet with Mr. McGee, of Mr. Cadwell's office, and the Governor of American Samoa at Pago Pago at the time of my next business trip to the island, probably during early March, 1963.

As I told you at our meeting, the industrial growth of American Samoa has been substantial during the past several months, and the general economic picture for the future is indeed bright. On January 22, 1963, final arrangements were concluded with the Government of American Samoa whereby plant sites were created and agreed upon for the location of the new Star Kist tuna cannery (Star Kit is to be merged with H.J. Heinz, subject to stockholder approval), the American Can Company plant which will supply cans to Star Kist and the existing Van Camp tuna canneries, and our own Pacific Coconut Processing Corporation facility. The addition of these three new major companies can only serve to give a considerable boost to the Samoan economy in terms of expanded employment opportunities and an increased standard of living, because up until now, the only industry located at American Samoa has been the Van Camp tuna cannery.

In terms of increased consumption of petroleum products, there will now be a total of approximately 200 Japanese fishing boats using Pago Pago as their home port for the delivery of tuna, these boats being 135-foot, diesel-powered fishing craft all contracted for in Japan. The increase in the number of Japanese fishing boats will be approximately 100% in that Van Camp has been contracting for about 100 Japanese boats to the present date.

In addition to the increased number of tuna boats operating out of Pago Pago, other shipping facilities which represent potential customers of petroleum products are as follows:

EXHIBIT 97
NO. 97 FOR ID NO.
9-23-76
(McLeod)

(a) The Matson Navigation Company, The General Steamship Company, and The Union Steamship Company all have freighters and cruise ships which make Pago Pago a regular port of call. General Steamship is about to add an additional freighter, and the Matson Navigation Company has already added an additional freighter just within the past few months.

(b) The Tonga Copra Board will be operating two freighters on regular weekly runs to Pago Pago; one of these freighters has not been put into service yet but will be in operation before the end of this year.

(c) The Government of American Samoa operates a number of inter-island diesel-powered ships, and also some daily-running personnel boats of the Navy vintage LCl, LCM and LCVP.

(d) Personnel and freight ships are already in operation on a regular basis between Western Samoa and Pago Pago.

In view of the foregoing, marine delivery facilities would seem definitely justified near or adjacent to the industrial complex being created at the area indicated on the survey map enclosed herewith. In our preliminary discussions with the Governor, two possible sites were suggested for the establishment of such a marine facility in close proximity to the new industrial complex. Space could also be made available under a long-term lease from the Government of American Samoa for the location of bulk tanks near or adjacent to the proposed marine delivery station.

Apart from the market for marine fuels, a substantial existing market with expanding future potential is also available for aviation fuels and lubricants.

The Government, as shown on the enclosed aerial photograph, has recently completed a 12,000-foot jet landing strip at a cost of approximately $9 million, thereby bringing Pago Pago within easy reach of the Hawaiian Islands (4 hours 45 minutes flying time) by jet clipper. At the present time, the Pago Pago Airport is served by Pan American jets and also by TEAL and Polynesian Airlines. South Pacific Airlines has coverted their operation of Constellations between Honolulu, Pago Pago and Tahiti to jet service from San Francisco and Los Angeles to Pago Pago and Tahiti via Honolulu, such service to commence immediately upon receipt of final C.A.B. route approval. Furthermore, Secretary of the Interior Udall has publicly announced that TAI will hereafter be required to stop at Pago Pago, as he intends to justify the expenditure of federal funds for the new jet strip by making Pago Pago the hub of South Pacific air traffic instead of Fiji.

Upon completion of the new hotel facilities planned for this year and next, increased tourist traffic to Pago Pago will lead to a substantial increase

PLAINTIFF / EXHIB.
SDX NO. 44 99 FOR IDENT.
MARK CALLITY, C.S.R.

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in existing air traffic and the establishment of expanded feeder facilities to many of the neighboring islands. For example, negotiations are now in progress between Tonga, Western Samoa and South Pacific Airlines for the purpose of establishing specified feeder facilities. Consequently, the market for aviation fuels and lubricants, although relatively new, should expand considerably in the immediate future. As indicated on the enclosed map, aviation delivery facilities could be established on a long-term government lease at the airport, these facilities to be supplied from off-shore tanker loading lines.

It should also be noted that a substantial increase in the consumption of ordinary fuels for motor vehicles can be anticipated. As the development of American Samoa proceeds with the construction of new industrial, commercial, hotel and government facilities, the demand for gasoline and other petroleum products for automobiles, trucks, buses and construction equipment must, of necessity, increase substantially. The Governor has obtained in Washington two of the biggest budgets ever for this year and next - $12 million for each year. A substantial portion of these government funds is earmarked for an extensive road building program designed to make most of American Samoa readily accessible to all types of motor vehicles.

At the present time, the only existing bulk plant facilities at Pago Pago are those belonging to Standard Oil of California. As shown on the enclosed map, these facilities are particularly badly located in terms of the planned industrial and commercial expansion discussed above. Furthermore, the Government of American Samoa is most anxious to establish additional bulk plant facilities in the name of a second company due to Standard Oil's monopoly position which has not led to a very satisfactory relationship with either the Government or the local Samoan consumers. As a result, the Governor has engaged in serious negotiations with Mobile of New Zealand, who have indicated considerable interest, but due to the efforts of my client, Raymond C. Turnbull, President of Pacific Coconut Processing Corporation, a second bulk plant franchise could be obtained from the Governor for Union Oil, or its Unoco, Ltd., subsidiary, in the event such a proposition appears attractive.

In order to justify the establishment of a second bulk plant franchise at Pago Pago on the basis of present business and not just for the sake of creating competition for Standard Oil, the Governor has supplied figures which are enclosed herewith showing the total imports of various types of petroleum products during the two immediately-preceding fiscal years. Of course, these figures do not include the last six months of 1962 or the first month of 1963 which period should reflect a substantial increase in most categories. Moreover, even on the basis of completely up to date figures, much of the industrial, commercial and other expansion indicated

PLAINTIFF EXHIB.
SDX NO. 44. 99 FOR IDENT.
MARK CALLITY, C.S.R.

REESE H. TAYLOR, JR.
ATTORNEY AT LAW
8830 WILSHIRE BOULEVARD
SUITE 309
BEVERLY HILLS, CALIFORNIA
—
OLYMPIA 2-0018

January 31, 1963

above would not be reflected. As a result, the figures supplied are only given to indicate the existence of an already substantial market without taking into account at all the future potential from just the expansion now contemplated. Additional expansion and increased future potential, while perhaps speculative as to degree at this writing, is sure to follow from the expansion now planned.

If Union Oil, through its subsidiary Unoco, Ltd., is interested in studying further the prospects of American Samoa as a potentially booming new market outlet, I would appreciate your having Mr. Cadwell so inform me at his earliest convenience so that arrangements can be made to meet with his Mr. McGee in Pago Pago at a time when the Governor will be present, hopefully during early March of this year. In addition, I will be glad to offer my services and the good offices of my client, Mr. Turnbull, in helping with the negotiation of a long-term land lease from the Government of American Samoa, the obtaining of a competent local operator for a new bulk plant facility, and with whatever governmental, legal or other matters which may rise in obtaining a satisfactory new bulk plant franchise at Pago Pago.

Meanwhile, if you or Mr. Cadwell have any questions pertaining to this matter, please do not hesitate to get in touch with me.

With best and warmest regards,

Very sincerely,

REESE H. TAYLOR, JR.

Enclosures:
Map
Aerial Photograph
Exhibit

~~PLAINTIFF'S~~ EXHIB.
SDX NO. [illegible] 100 FOR IDENT.
MARK GALANTY, C.S.R. #3019

EXHIBIT

PETROLEUM PRODUCTS SHIPPED INTO PAGO PAGO, AMERICAN SAMOA DURING TWO PRECEDING YEARS*

PERIOD JULY 1, 1960 to JUNE 30, 1961

Aviation Gasoline	286,055	gals.
Motor gasoline	469,585	"
Pearl Oil	125,539	"
Diesel Fuel	2,997,310	"
Auto Diesel	260,052	"
Standard Bunker Fuel	343,436	"

PERIOD JULY 1, 1961 to JUNE 30, 1962

Aviation Gasoline	683,958	gals.
Motor Gasoline	746,137	"
Pearl Oil	114,047	"
Diesel Fuel	3,481,394	"
Auto Diesel	64,217	"
Standard Bunker Fuel	468,736	"

* Figures for fiscal year 1962 and 1963 will not be available until June 30, 1963. Also, no figures are indicated for packaged petroleum products but these can be obtained and submitted on gallonage or other convenient basis if desired.

~~PLAINTIFF'S~~ EXHIB.
SDX NO. [illegible] 101 FOR IDENT.
MARK GALANTY, C.S.R. #3019

C O P Y C O P Y C O P Y C O P Y

March 1, 1963

Mr. Reese H. Taylor, Jr.
Attorney at Law,
8530 Wilshire Boulevard
Suite 309,
Beverly Hills, California,
U.S.A.

Dear Mr. Taylor:

Pago Pago, American Samoa

Mr. Sanders referred your letter dated January 31, 1963 regarding detailed plans and proposals for increased activity in Pago Pago, American Samoa, to Mr. F.K. Cadwell.

Mr. Cadwell has been on a rather extensive business trip throughout the Far East and London and because of this your letter as well as Mr. Sanders' letter, arrived after his departure.

I am very confident that Mr. Cadwell is going to be extremely appreciative of the opportunity to work with you and Mr. Turnbull on the possibility of constructing bulk petroleum facilities in Samoa. He has shown a keen interest and shares your optimism that there will be a tremendous economic growth in this area. We made a serious attempt two years ago to construct similar facilities in Tahiti and although our proposal was the most favourable to the Government we could not seem to secure the final approval from the French Government in Paris.

Your interest on our behalf in offering to assist us with the Government of American Samoa in negotiating a long-term land lease as well as putting us in contact with competent local operators is most appreciated.

Mr. Cadwell will return to Hongkong on March 15th, however I am sending him a carbon copy of this letter which we hope will reach him in Teheran, Iran. We would appreciate it if you could advise us of your current plans as to your return visit to Pago Pago. You indicated in your letter that it would be in the early part of March and we are wondering if there is any change in your schedule. If Mr. Cadwell feels after reviewing the preliminary economic study we are giving him that a representative should meet you in Pago Pago, it would of course be much more convenient to meet you the latter part of March or the 1st of April. Please let us hear from you.

Yours very truly,

James H. McGee
James H. McGee
Sales Manager

PLAINTIFF EXHIB.
NO. [illegible] FOR IDENT.
MARK GALANTY, C.S.R.

Union Oil Company of California
UNION OIL CENTER
LOS ANGELES 17, CALIFORNIA

July 11, 1963

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard · Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Thank you very much for your hospitality yesterday and the opportunity to discuss details of development in Pago Pago. Your personal comments were most helpful, and I believe that I can now supply Mr. McGee the information he needs in evaluating this proposal.

In line with your interests is the enclosed story on "The Rising Tide of World Travel." This appeared in the First National City Bank of New York's Monthly Economic Letter for July, 1963.

Sincerely,

Paul F. Lueth
Paul F. Lueth

J M Valdez, N.P.
11-11-78

STANDARD OIL COMPANY OF CALIFORNIA,
WESTERN OPERATIONS, INC.
141 MERCHANT STREET • HONOLULU 1 • HAWAII

MARKETING DEPARTMENT
TELEPHONE 502-611
W. H. DITLER
REGIONAL MANAGER
C. A. PERKINS
RETAIL SALES MANAGER
C. H. ABRAMS
WHOLESALE SALES MANAGER
E. J. McGOWAN
ASSISTANT TO THE REGIONAL MANAGER

April 2, 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corp.
8530 Wilshire Boulevard
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

This refers to your letter dated March 23, 1964, directed to our Mr. F. A. Evans regarding the proposed harbor development in the lagoon near the Tafuna Airport which has been referred to us for our information.

We wish to thank you for this information and would be interested in any other information you might develop in the future.

Very truly yours,

C. H. ABRAMS

By
Special Representative
(Contractor & Aviation)

CB:en

PLAINTIFF EXHIB.
NO. 147 FOR IDENT.
MARK GALAN

Mobil Petroleum Company Inc.
150 EAST 42ND STREET, NEW YORK 17, N. Y

May 6, 1964

Mr. R. C. Turnbull, President
Pacific Coconut Processing Company
3530 Wilshire Blvd.
Suite 309
Beverley Hills, California

Dear Mr. Turnbull:

Thank you for giving us the opportunity to consider your proposal regarding petroleum products for Samoa. We are also appreciative of the time you spent in explaining all of the details to us.

Mr. Keeley, who represents our vice president in Australia, is now communicating with people in the affiliate who handle Mobil products on the Pacific Islands. Either Mr. Keeley or I will advise you of additional information as soon as it is available.

We hope your trip to Washington and back to the Pacific Coast was pleasant.

Sincerely,

Clyde Port

Clyde Port
Marketing Manager

abw

PLAINTIFF EXHIB.
NO.

GOVERNMENT OF AMERICAN SAMOA
OFFICE OF THE GOVERNOR
PAGO PAGO, AMERICAN SAMOA

In reply refer to:
GAS/15B-PCPC
Serial: 1711

[illegible] 1964

Mr. Raymond C. Turnbull, President
Pacific Coconut Processing Corporation
8530 Wilshire Boulevard, Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

This will confirm our telephone discussion concerning your letter of June 25, 1964, and the plan for the petroleum people to be in Pago Pago the last of July.

As soon as you have definite word as to when they would like to come, I hope you will advise me by cable so that I can be sure to be here. I am looking forward to a full exploration of this interesting project.

Sincerely yours,

H. REX LEE
Governor

[illegible]

August 6, 1964

Mr. J.T. Shaw
Summit Industrial Corporation
120 Wall Street
New York City, New York

Dear Mr. Shaw:

I am enclosing herewith the specifications and price of petroleum products charged by Standard Oil in Pago Pago.

I hope that this spec will help you in the determination of the proposed prices.

Yours very truly,

RAYMOND C. TURNBULL
President

Enclosure

PL[illegible] EXHIB
NO 11 FOR IDENT

CHICAGO BRIDGE & IRON COMPANY
100 BUSH STREET
CABLE-CHIBRIDGE SAN FRANCISCO 4, CALIFORNIA TEL.-EXBROOK 2-0956
TWX-SF 572

November 30, 1964

In Duplicate

Pacific Coconut Processing Corporation
8530 Wilshire Boulevard, Suite 309
Beverly Hills, California

Attention: Mr. Ray Turnbull

Gentlemen:

Re: Petroleum Storage Tanks
Pago Pago, American Samoa

In accordance with our recent discussions, we are pleased to submit the following proposal for furnishing petroleum storage tanks erected in Pago Pago, American Samoa.

Accordingly, we propose to design, fabricate, deliver, and erect in open space on foundations furnished by others in Pago Pago, American Samoa, the following petroleum tanks:

DESCRIPTION	PRICE EACH	TOTAL PRICE
1 - 20,000-Barrel (60' Diameter x 40' High) Horton Weathermaster Floating Roof Tank...		$58,750
2 - 35,000-Barrel (80' Diameter x 40' High) Cone Roof Storage Tanks....................	$54,460	$108,920
1 - 10,000-Barrel (42'6" Diameter x 40' High) Cone Roof Storage Tank....................		$21,850
TOTAL..........................		$189,520

These tanks would be designed and constructed in strict accordance with American Petroleum Institute Specification 650 and in accordance with the attached specification sheets, marked S.F. Estimate 1594-A, 1594-B, and 1594-C. In addition to the tanks proper, the above-quoted prices include the accessory items as listed on the specification sheets.

Our prices do not include any metal preparation or painting. However, if you wish us to pickle and prime the exterior

---

surfaces of the shell and roof, we would be pleased to do so for the following additional prices:

20,000-Barrel Weathermaster Roof Tank......	$1,065
35,000-Barrel Cone Roof Tanks..............	$1,385 Each
10,000-Barrel Cone Roof Tank...............	$665

If you wish to have these tanks equipped with an automatic tank gage, Shand & Jurs 2006 or equal, the following prices would apply:

For Cone Roof Tanks.......	$520 Each
For Floating Roof Tank....	$720

We attach our General Specifications, Revision 4, which will apply and are hereby made a part of this proposal.

The above-quoted prices are based upon receiving an order for all four tanks quoted and are contingent upon your furnishing us well-drained readily accessible tank foundations with a minimum of 20' clear around each tank pad. We would expect you to furnish us these foundations in a sequence that would permit us to have continuous work. Any cost or waiting time due to incomplete foundations or other delays within your control would be for your account.

Sales taxes, use taxes, gross receipts taxes, and/or other similar taxes imposed on the Chicago Bridge & Iron Company or the purchaser with respect to any vessel or structure furnished under this proposal or the material therefor will be for the account of the purchaser and will be invoiced as additions to the price quoted for that vessel or structure.

The prices quoted are contingent upon our performing this work along with other work which we currently have in Pago Pago. We anticipate completing the current work approximately August 1, 1965, and would want to begin construction of these structures at that time. We estimate that it would require our field forces approximately 16 weeks to complete this construction after arrival of materials at the jobsite. In order to maintain this schedule, it would be necessary that we have your order by January 15, 1965.

All shipping and completion promises are contingent on delays beyond our reasonable control, including but not limited to strikes, governmental actions, and voluntary allocations by the steel mills.

CHICAGO BRIDGE & IRON COMPANY

Pacific Coconut Processing Corporation — Page 3
Attention: Mr. Ray Turnbull — November 30, 1964

Terms of Payment: The contract price shall be paid in funds current at par in New York or Chicago, U.S.A., free of all collection charges, as follows:

a) Forty percent (40%) of the contract price shall be due when the material has been received by Chicago Bridge & Iron Company;

b) Twenty-five percent (25%) of the contract price shall be due on shipment of the material to the jobsite and before erection is started;

c) Twenty-five percent (25%) of the contract price shall be due on completion of the erection of the structure; and

d) The balance of the contract price shall be due on completion of all other work required of Chicago Bridge & Iron Company and on test or inspection and acceptance of the structure, or if such test or inspection is delayed for any reason attributable to the purchaser, then, the balance of the contract price shall be due within thirty (30) days after the work is ready for test or inspection.

If the contract covers more than one structure, each structure or its equivalent tonnage shall be considered a unit and the terms of payment above stated shall be applied separately to that unit.

We wish to thank you for the opportunity of quoting on this requirement and sincerely hope that we have the pleasure of furnishing these structures for you.

Very truly yours,

CHICAGO BRIDGE & IRON COMPANY

R. A. Johrde

R. A. Johrde
District Manager - Contracting

RAJ:aer
Enclosures
SP-1594

Deft SOX
J.M. Valdez, R.P.

TIDEWATER DEVELOPMENT CORPORATION

[illegible] WILSHIRE BOULEVARD
SUITE [illegible]
BEVERLY HILLS, CALIFORNIA
TELEPHONE [illegible]

April 13, 1965

Mr. Robert Pederson
Starkist Foods, Inc.
Terminal Island
California

Dear Mr. Pederson:

The following constitutes a proposal to furnish diesel fuel to your plant in American Samoa and to the fishing boats that service your cannery:

1. The price delivered to your plant boundary line by metered pipeline and the price to the boats dockside will be .1185¢ per gallon.
2. The specification of the fuel will be equal to or better than that product presently used by G.A.S. in their new powerhouse.
3. The above quoted price is based on the Singapore and Persian Gulf posted price.
4. A new concrete dock will be constructed running westerly from the Starkist-P.C.P.C. boundary line. From this dock the fishing boats will refuel. The filling of tank batteries will be done from fueling buoys in the stream, utilizing flexible pipeline to the shore. At no time will there be danger of contamination or fire using this method.
5. Proposed tank site includes the old powerhouse and such government land lying easterly therefrom required to hold 110,000 barrel tankage, API specification.

It is requested that consideration be given to entering into a long term contract subject to:

a. Approval of product
b. Dependability of source and service.
c. Lower price
d. Government approval of the project.

This proposal must be approved and accepted by the government and the industries prior to the capital investment of $500,000. In order to justify such investment, the new American Samoa corporate entity requests consideration of the proposal by all parties so that a common agreement may be reached.

Yours very truly,

Raymond C. Turnbull

cc/John Real
Vince Evich

PLAINTIFF EXHIB.
NO. [illegible] FOR IDENT.
MARK GALANTY, C.S.R. #[illegible]

OCEANIC PETROLEUM CORPORATION
ARCIA BUILDING
JUSTO AROSEMENA AND ECUADOR AVENUES
P. O. BOX 6307
PANAMA, REPUBLIC OF PANAMA

PLEASE REPLY TO:
NEW YORK REPRESENTATIVE
SUITE 818
120 WALL STREET
NEW YORK 5, NEW YORK
TEL: WH 4-7490

August 4, 1965

Mr. William McCook
14400 E. Firestone Boulevard
La Mirada, California

Dear Mr. McCook:

We are pleased to offer to deliver to your terminal at Pago Pago, American Samoa, petroleum products in bulk at the following CIF prices:

JP-1A	13.50 cents/U.S. gallon
High Speed Diesel (53/57 D.I.)	9.65 cents/U.S. gallon
Marine Diesel	9.50 cents/U.S. gallon
Kerosene	13.55 cents/U.S. gallon
Mogas, 93 R.O.N.	12.80 cents/U.S. gallon

These prices are subject to deliveries in T-2 size Tankers, and also to any change in the posted price of each product from August 3, 1965 posting FOB Pulau Bukom by Shell, as reported in the Platt's Oilgram.

The posted prices in effect at Pulau Bukom on August 3, 1965 were:

JP-1A (Turbine Fuel)	10.1 cents/U.S. gallon
Mogas, 93 R.O.N.	10.1 cents/U.S. gallon
Kerosene	9.4 cents/U.S. gallon
High Speed Diesel (53/57 D.I.)	8.0 cents/U.S. gallon
Marine Diesel	$3.15 per barrel

We are taking the liberty of enclosing a copy of the said Oilgram for your reference.

Mr. McCook - 2 - August 4, 1965

We propose to enter into a long term contract with you for ten years. We shall guarantee the supply of the products upon your nomination.

We understand that you are in the process of planning for storage facilities and a couple of modern service stations in American Samoa. If we can be of any service to you, kindly let us know.

Very truly yours,

OCEANIC PETROLEUM CORPORATION

J. T. Shaw
President

JTS:ag

Enclosure

cc: Mr. R. C. Turnbull

SUMMIT INDUSTRIAL CORPORATION
120 WALL STREET
NEW YORK 5, N.Y.
CABLE ADDRESS SUMITIND
TELEPHONE WHITEHALL 4 7491

August 27, 1965

Mr. Raymond C. Turnbull
8756 Holloway Drive
Los Angeles 69, California

Dear Mr. Turnbull:

Referring to the questions you made in your letter of August 25, I wish to explain to you in detail as follows:

1. Pulau Bukom is an island near by Singapore where Shell has a refinery. Usually people just call it Singapore, but actually it belongs to Indonesia.

2. When we use the posted price of Pulau Bukom, it is for reference only. It does not necessarily mean that we must take the oil from Shell's Singapore refinery. This is strictly for calculation of the price changes. Since Singapore is the closest supply point, I arbitrarily selected it for reference. Supposing there is a change of the posted price at Pulau Bukom, we shall adjust our price to Mr. McCook accordingly, regardless where the oil is to be shipped from. This is the usual practice in the oil trade. We could use the Persian Gulf posted prices also if the Governor prefers so.

3. I intend to supply the oil to Pago Pago from our Bangkok refinery or through exchange, to take either from Singapore or Persian Gulf, wherever it is more convenient to the tanker's schedule.

4. There is a universal specification of each grade of oil which is refined by the industry. As long as the oil is in compliance with this specification, it will serve the purpose. I assure the Governor that the oil which we will deliver to Pago Pago shall meet the international standard.

The consumption capacity at Pago Pago and South Sea Islands are not balanced and too small for anybody to build an oil refinery there. I recommend to you to hold off any such thoughts for the time being until we see the development of sales.

In the meantime, please get after the Governor to get this contract approved as soon as possible so that we can look forward to starting the business without much delay.

Very truly yours,

SUMMIT INDUSTRIAL CORPORATION

J. T. Shaw

JTS:ag

B. DISCOVERY PROCEDURES

1. Pretrial

PILLSBURY, MADISON & SUTRO
FRANCIS R. KIRKHAM
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company of California

United States District Court for the
Northern District of California

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

No. 52334
Civil

NOTICE OF MOTION AND MOTION OF DEFENDANT STANDARD OIL COMPANY OF CALIFORNIA FOR PRODUCTION OF DOCUMENTS UNDER RULE 34

To plaintiff above named and to its attorneys of record:

PLEASE TAKE NOTICE that on Friday, the 14th day of November, 1969, at the hour of 10 o'clock a.m., or as soon thereafter as counsel can be heard, defendant STANDARD OIL COMPANY OF CALIFORNIA will bring the following motion on for hearing before the Honorable William T. Sweigert at the United States Court House, 450 Golden Gate Avenue, San Francisco, California.

MOTION

Defendant STANDARD OIL COMPANY OF CALIFORNIA, pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby moves this Court for an order requiring plaintiff, within 90 days following the entry of said order, to produce, at the office of its counsel of record herein, and to permit defendant to inspect and copy each of the writings specified in the schedule attached hereto.

This motion is based upon the foregoing notice of motion, the memorandum attached in support thereof, the affidavit of William E. Mussman, and upon all of the records and papers on file herein.

Dated: October 23, 1969.

PILLSBURY, MADISON & SUTRO
FRANCIS R. KIRKHAM
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD

By WM. E. MUSSMAN

Attorneys for Defendant
Standard Oil Company
of California

SCHEDULE OF DOCUMENTS

I

Definitions

As used herein, the following terms have the meanings indicated:

(1) "Plaintiff" means the United States of America and all of its branches, departments and agencies, including, without limitation, the Department of Justice, Department of the Interior, Bureau of the Budget, Department of the Navy, and the Government of American Samoa.

(2) "Documents" means all written or graphic material, wherever located, in the possession or under the control of employees, agents or other representatives of plaintiff, except (a) documents in the possession of plaintiff's counsel in this action which were prepared by said counsel in connection with either the investigation which preceded, or the filing of, this action; and (b) publications printed by the Government Printing Office.

(3) "Petroleum products" includes motor gasoline, aviation fuels, kerosene, diesel fuel, lubricating oils and fuel oil.

II

Time Period

Unless otherwise stated, the following requests call for documents which were prepared during, or which relate to, the period commencing January 1, 1955, and ending on the date of the filing of the complaint herein.

III

Documents

To be produced are:

(1) All documents which refer in any way to the lease agreement referred to in paragraph 4 of the complaint herein.

(2) All documents which refer in any way to a supply of petroleum products, or any of them, for American Samoa, or the distribution of petroleum products, or any of them, in American Samoa, or the sale of petroleum products, or any of them, in American Samoa, or the storage of petroleum products, or any of them, in American Samoa, provided, however, that plaintiff need not produce accounting records which reflect purchases by plaintiff of petroleum products in American Samoa after July 1, 1956.

(3) All expense accounts (including supporting vouchers) and all desk calendars and diaries prepared by or for Rex Lee during the time that he was Governor of, or otherwise represented, American Samoa.

Ry Turnbull [illegible]

William R. McCoy
Ryan Outdoor Advertising Co.
La Mirada
14400 East Firestone Blvd

MA4-0232

has file with proposal
for Gov. Lee
on putting in [illegible] [illegible]
plant in Pago Pago

Mailed to Gov Lee

Trumbull

Witten presentation, should be

World

Posted Price

oil Petroleum

& Where shipped

from

Counsel for Trumbull

Howard L White

CL 3-2[illegible]

Will send copy

Received of Raymond C. Trumbull

1. File of correspondence entitled

"Union Roth Plant - Samoa"

2. File of correspondence entitled

"Summit Industrial Corp. # — Correspondence"

3. File of correspondence entitled

"Correspondence Gov. Lee 1962 - 1965"

to be returned, intact as soon as copies of relevant documents are copied

B M Hollander

Los Angeles

10/29/69

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
RWMcL:AAD:BMH
60-57-193

November 3, 1969

AIR MAIL - CERTIFIED

Mr. Raymond C. Turnbull
Seaways International Engineering
Corporation
8681 Wilshire Boulevard
Suite 104
Beverly Hills, California 90211

Re: United States v. Standard Oil Company of California
(N.D., California), Civil Action No. 52334

Dear Mr. Turnbull:

I am enclosing, intact, the following files which were borrowed from you on October 29, 1969:

1. File of correspondence entitled, "Union Bulk Plant-Samoa".
2. File of correspondence entitled, "Summit Industrial Corporation-Correspondence".
3. File of correspondence entitled, "Correspondence Governor Lee 1962-1965".

Will you please acknowledge receipt of the above files on the enclosed copy of this letter and return it to me in the self-addressed envelope.

60-57-193
DEPARTMENT
13
NOV 20 1969
R.A.O.
ANTITRUST
RECORDED

It would be appreciated if you would forward to me a copy of the proposal for a bulk petroleum plant in American Samoa which was apparently retained by Mr. William R. McCook.

Your assistance in this matter is greatly appreciated and should you become aware of any additional information or material relevant to this case, please advise me.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

Bernard M. Hollander
By: Bernard M. Hollander
Attorney, Department of Justice

Receipt Acknowledged:

Raymond C. Turnbull
Raymond C. Turnbull

November 18, 1969

Bernard M. Hollander
Donald H. Mullins
Antitrust Division
Department of Justice
450 Golden Gate Avenue
Room 16432, Box 36046
San Francisco, California 94102
(Telephone: 556-6300)

ORIGINAL
FILED
DEC 2 1969
CLERK U. S. DIST. COURT
SAN FRANCISCO

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

Civil Action No. 52334-WTS

STIPULATION AND ORDER

It is hereby stipulated and agreed by and between the undersigned parties, by their respective attorneys, subject to the approval of the Court, that:

1. The time for Plaintiff to answer Defendant's First Set of Interrogatories, dated October 23, 1969, be and it hereby is extended to and including January 16, 1970;

2. As to the documents called for under Section III of Defendant's Motion for Production of Documents under Rule 34, filed herein on October 23, 1969, and presently set for hearing on December 12, 1969:

(a). Plaintiff will produce the travel vouchers called for by Paragraph (3) in conjunction with any deposition of former Governor H. Rex Lee hereafter taken by defendant in this action;

(b). Plaintiff will produce on or before January 16, 1970, any non-privileged post-1961 documents, called for by Paragraph (2), which have been found in the files of the Government of American Samoa in American Samoa; and

(c). The parties will attempt to agree upon the extent to which any pre-1961 documents called for by Paragraph (2), should be produced, after any such documents have been located and the method by which they have been indexed, classified and stored in the Archives has been ascertained;

3. Except as herein provided, all requests for documents contained in Defendant's said Motion to Produce under Rule 34 are withdrawn; provided, however, that Defendant may readdress any or all of said requests, and Plaintiff shall have the right to oppose any or all of said requests, if readdressed; and

4. This Stipulation is without prejudice to the contentions of the parties with respect to the materiality, relevancy or admissibility of any documents to be produced hereunder, or to any of the information contained therein.

Dated: December 1, 1969

Bernard M Hollander
BERNARD M. HOLLANDER
Attorney for Plaintiff
United States of America

Wm E. Mussman
WILLIAM E. MUSSMAN
On behalf of attorneys
for Defendant

IT IS SO ORDERED this 1 day of December, 1969.

W. T. SWEIGERT
WILLIAM T. SWEIGERT
Judge of the United States District Court

from the desk of

HOWARD L. WINTON

December 11, 1969

Re: United States v. Standard Oil

From the files of Mr. Turnbull.

HOWARD L. WINTON
8380 WILSHIRE BOULEVARD, SUITE 808
LOS ANGELES, CALIFORNIA 90048

Compliments of CONTINENTAL GRAPHICS • 101 So. La Brea, Los Angeles 90036 • 938-2511

February 25, 1970

USA v. Standard Oil Company
of California (American Samoa)

Bernard M. Hollander, Esq.
Antitrust Division
Department of Justice
Washington, D.C. 20530

Dear Mr. Hollander:

In view of the relatively short time we have in which to complete discovery, I shall write to you from time to time requesting documents and information as the need becomes apparent in my analysis of the case. This piecemeal approach is less convenient for all of us but becomes a practical necessity.

If you are agreeable, I shall simply submit requests for information to you by letter rather than follow the formal procedure of propounding interrogatories. Requests for admission, of course, will be formalized.

In view of the Government's response to our Interrogatories Nos. 1 and 2, I must renew my request for production of the documents described in paragraph III(1) of Standard's motion to produce. Hopefully the Department of the Interior, Department of the Navy and Bureau of the Budget files will contain documents of the type described which pertain not only to the lease to Standard but also to negotiations with other oil companies in 1955 and 1956. As you know, we have only a very incomplete documentation of some negotiation with Shell in 1955 as a result of the Government's production to date.

I would also appreciate knowing from you just when you propose to complete the Government's answers to Standard's interrogatories. This must be done sufficiently in advance of the closing of discovery to permit me to investigate by available discovery any new matter which you may see fit to add to your present answers.

Sincerely yours,

W. E. Mussman

[RETYPED]

[SEAL] UNITED STATES DEPARTMENT OF JUSTICE

Address Reply to the
Division Indicated
and Refer to Initial and
Number
RWMcL:AAD:BMH
60-57-193

WASHINGTON, D.C. 20530

March 31, 1970

AIR MAIL

William E. Mussman, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: United States v. Standard Oil Company of California,
Civil Action No. 52334 WTS, N.D. California

Dear Mr. Mussman:

This has reference to your letter of February 25, 1970, and our subsequent telephone conversations. The procedure you suggested of simply submitting requests for information by letter, rather than propounding Interrogatories, is perfectly agreeable to us.

We are somewhat puzzled by your statement that in view of our response to your Interrogatories Nos. 1 and 2, you must renew your request for production of the documents described in Paragraph III(1). This seems particularly puzzling in light of our Request for Admission No. 6 and your Answer thereto, which establish that the lease agreement had, at the time of its entry, been accepted and approved by GAS, the Departments of Interior and Navy and the Bureau of the Budget. Since the Government in its Answer expressly makes no claim as to whether the lease agreement was unlawful in its inception or became unlawful at any subsequent point in time, production of documents concerning negotiations which led to the lease hardly seem required for your defense against any issue of fact raised by the plaintiff.

[RETYPED]

Despite the above doubts, the relevant files of the Department of Interior, the Navy Department and the Bureau of the Budtet have been searched for any documents responsive to Paragraph's III(1) or (2) of your Motion to Produce, and I am enclosing copies of additional documents OT 1-74, which have been reproduced from the files of Interior's Office of Territories, and N 1-24, which are copies of documents reproduced from the files of the Navy Department. The Bureau of the Budget has reported that they have no relevant documents.

With regard to your question of when the Government proposes to complete its Answer to Standard's Interrogatories, this will advise you, as already stated in our Answers, that we have completed our Answer to your Interrogatories, but will feel free to add any additional information which is not now known to us. Obviously, if further discovery provides such additional information, the Government does not deem itself foreclosed from using such information at the trial, just as defendant has indicated that it expects to augment or modify its responses to the Government's Requests for Admission, if that proves necessary.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander
Attorney, Department of Justice

Enclosure

[RETYPED]

(Retyped)

April 1, 1970

USA v. Standard Oil Company
of California (American Samoa)

RWMcL:AAD:BMH 60-57-193

Bernard M. Hollander, Esq.
Antitrust Division
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Hollander:

This will acknowledge receipt of your letter of March 31, 1970, and the enclosed documents. Would you please confirm to me my understanding that you have now sent me copies of all documents responsive to paragraph III(1) and (2) of Defendant's Motion to Produce which are in the possession, custody or control of plaintiff as defined in paragraph I(1) of said motion?

Your co-operation is greatly appreciated.

Sincerely yours,

W. E. Mussman

(Retyped)

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
RWMcL:AAD:BMH
60-57-193

April 13, 1970

AIR MAIL

William E. Mussman, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: United States v. Standard Oil Company of California,
Civil Action No. 52334 WTS, N.D. California.

Dear Mr. Mussman:

This is in answer to your letter of April 1, 1970, concerning the documents sent to you in response to your Motion to Produce, and our agreements thereunder. As agreed, we have caused to be searched, the files of the Government of American Samoa, the Department of Interior, the Department of Navy and the Bureau of the Budget, and have sent you copies of all non-privileged documents found in their files. In addition, I am enclosing copies of documents TU 1-100, obtained from Mr. Turnbull, documents T 1-49, obtained from Time Oil and documents PA 1-1D, obtained from Pan American World Airways. To the best of my knowledge and belief, this fulfills my commitment as to what would be produced by the Government.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

Bernard M. Hollander
By: Bernard M. Hollander
Attorney, Department of Justice

Enclosures

(Retyped)

RICHARD B. LYNN
Attorney at Law
616 East Chapman Avenue
Orange, California 92667
(714) 633-6410

June 25, 1970

Mr. Raymond C. Turnbull
Vice President
Seaways International Engineering Corp.
8681 Wilshire Boulevard
Beverly Hills, California

Dear Mr. Turnbull:

REFERENCE: TURNBULL--McCOOK VS. STANDARD OIL

On June 24, 1970, I met with Lyle L. Jones, Esq., at San Diego respecting the plaintiffs' case in the above captioned matter.

As a result of that conference, I have tentatively scheduled a meeting between yourself, this writer, and Mr. Jones and one of his associates on Wednesday, July 8, at 10:30 a.m. in San Diego. I would like to suggest that prior to that meeting date Mr. McCook, yourself, and this writer meet for a preliminary discussion to determine whether or not the San Diego meeting is warranted. I would like to suggest that a luncheon meeting in Orange County be held on either Tuesday, June 30, or the following day. If this meets with your schedule, please advise Mr. McCook's secretary so that she may make the necessary arrangements.

Two questions which I would appreciate having as much additional information as may not now be in the file which you recently handed me and which you could give some thought to prior to our luncheon meeting are: (1) What is the best evidence that but for Standard Oil's actions the "deal" would have been capable of being made? and (2) What were the economic considerations in abandoning the usage of existing fuel storage facilities which were at all times the property of GAS?

I trust that one of the two above mentioned dates are satisfactory for all parties and look forward to seeing you at that date.

Very truly yours,

RICHARD B. LYNN

RBL/cb

cc: Mr. William R. McCook

(Retyped)

SULLIVAN, MARINOS, AUGUSTINE & DELAFIELD
ATTORNEYS AT LAW
2140 FOURTH AVENUE
POST OFFICE BOX 362
SAN DIEGO, CALIFORNIA 92112
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JAMES S. MARINOS
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PETER V. BRUCHER
WAYNE M. PITLUCK
GEORGE S. MARINOS
ROBERT I. MAJRUGA
RONALD R. RUBOFF
RONALD L. STYN
ROBERT A. PRAHL
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LAWRENCE R. ALESSIO

LYLE L. JONES, OF COUNSEL

SAN FRANCISCO
CROCKER PLAZA, SUITE 2310
SAN FRANCISCO, CA. 94104
(415) 397-7087

June 25, 1970

Richard B. Lynn, Esq.
Attorney at Law
616 East Chapman Avenue
Orange, California 92667

Dear Mr. Lynn:

This is to confirm our agreement to a meeting date of July 8th at 10:30 A.M.

Sincerely,

Lyle L. Jones

LLJ:sw

FROM

(213) 652-0983

Raymond C. Turnbull
8681 Wilshire Blvd, Suite 104
Beverly Hills, Ca. 90211

TO

Lyle L. Jones, Esq.
Sullivan, Marin os, Augustine &Delafield
2140 4th Ave
P.O. Box 362
San Diego, Calif. 92112

Att: Mr Lynn

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SULLIVAN, MARINOS, AUGUSTINE & DELAFIELD
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LAWRENCE R ALESSIO

LYLE L JONES, OF COUNSEL

SAN FRANCISCO
CROCKER PLAZA SUITE 2310
SAN FRANCISCO, CA 94104
(415) 397-7667

August 19, 1970

Richard B. Lynn, Esq.
616 East Chapman Avenue
Orange, California 92667

Dear Dick:

Enclosed for your file is a set of Xerox copies of the documents forwarded to us by Mr. Turnbull. I particularly noted that on August 25, 1965 it is noted that "The formal proposal was sent by Wm. McCook to Governor Lee in Washington ...". I think it essential that we have a copy of this proposal and any reply which was received. Can Mr. McCook supply this?

I have asked our San Francisco office to obtain copies of everything factual which has been filed by defendants. It should be here soon, and after it is analyzed, I think I should talk to Mr. Turnbull. I do not think I am justified in spending the money to go to Washington for a conference with Bernie Hollander and Governor Lee until after the above outlined preparation is made.

In view of the time elements involved, I doubt that a full analysis can be made until after my return. Since the statute of limitations is suspended by the government's action, I see no objection to this. I am assuming that no turn down of the "formal proposal" mentioned above was received prior to September 30, 1969, four years prior to the government's filing.

Sincerely yours,

Lyle Jones

Lyle L. Jones

LLJ:bz
Enclosure

)

Sullivan, Marinos, Augustine & Dl .field
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CARLOS A. CAZARES
PETER V. [illegible]
WAYNE M. [illegible]
GEORGE S. MARINOS
ROBERT E. [illegible]
RONALD R. [illegible]
RONALD L. STYN
ROBERT A. [illegible]
DONALD W. SCHMIDT
LAWRENCE R. ALESSIO

LYLE L. JONES, OF COUNSEL

SAN FRANCISCO
CROCKER PLAZA, SUITE 2310
SAN FRANCISCO, CA. [illegible]
(415) [illegible]

August 25, 1970

Richard B. Lynn, Esq.
616 East Chapman Avenue
Orange, California 92667

Dear Dick:

I have now examined the government's file in San Francisco on their case against Standard Oil. Unfortunately, they did not have copies of the depositions. I have obtained copies of the factual material filed by Standard.

It is still my view that we should now sit tight in the buggy until my return and see what other facts, if any, useful for our case, may be forthcoming in the government proceeding.

During my absence, please feel free to call on Jim Sullivan if any questions arise.

Sincerely yours,

Lyle

Lyle L. Jones

LLJ:bz

(Retyped)

August 26, 1970

Mr. James O. Sullivan
Sullivan, Marinos, Augustine & Delafield
Attorneys at Law
2140 Fourth Avenue
Post Office Box 362
San Diego, California 92112

Dear Jim:

REFERENCE: McCOOK - STANDARD OIL

I enclose herewith for your file a copy of a letter dated August 13, 1965 from Mr. William McCook. The August 25, 1965 letter referred to in Lyle's letter of August 19, 1970 has not yet come to my attention.

If there are any specific developments which arise during Lyle's absence, or if copies of the depositions of Governor Lee come to your attention, I would very much appreciate having that information at an early date.

I look forward to seeing you personally in the not too distant future.

Very truly yours,

RICHARD B. LYNN

RBL/jlm

Enclosure

(Retyped)

(Retyped)

August 28, 1970

Mr. Raymond C. Turnbull
8681 Wilshire Boulevard
Beverly Hills, California

Dear Ray:

REFERENCE: STANDARD OIL - AMERICAN SAMOA

Following our most recent conversation I met with Mr. Lyle Jones, on August 17, 1970.

I enclose herewith copies of letters dated August 19, 20, and 25, from the office of Mr. Jones. Respecting the comments in paragraph one of the letter dated August 19, my only documents relative thereto were Mr. McCook's letter of August 13, 1965, and the approximately 30 page document specifying various purposes and dock and tank bids, together with balance sheets on the petroleum supplier which document is unfortunately not dated. To the best of your knowledge would this be the "formal proposal" which was to be sent on or about August 25, 1965.

In view of Standard's expressed intention to depose you, I would appreciate being advised of this fact at the earliest possible date so that either myself or Mr. James Sullivan can make arrangements to be present at that matter.

Thank you for your continued courtesy and cooperation in this matter.

Very truly yours,

RICHARD B. LYNN

RBL/jlm

Enclosures

(Retyped)

[STAMP]
Original
Filed
SEP 24 1970

CLERK, U.S. DIST. COURT
SAN FRANCISCO

PILLSBURY, MADISON & SUTRO
TURNER H. McBAINE
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company
of California

United States District Court for the

Northern District of California

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

No. 52334-WTS
Civil

NOTICE OF TAKING OF DEPOSITIONS

TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on the date and at the time indicated below, the undersigned will take the deposition upon oral examination of each of the following persons at the places and times indicated:

Raymond C. Turnbull,
Lawler, Felix & Hall,
605 West Olympic Boulevard,
Los Angeles, California, at 10:00 A.M.
on Thursday, October 1, 1970.

M. E. Long,
Pillsbury, Madison & Sutro
225 Bush Street,
San Francisco, California, at 9:00 A.M.
on Friday, October 2, 1970.

[RETYPED]

Carl A. Olson,
Pillsbury, Madison & Sutro,
225 Bush Street,
San Francisco, California, at 2:00 P.M.
on Friday, October 2, 1970.

Vincent J. Evich,
Pillsbury, Madison & Sutro,
225 Bush Street,
San Francisco, California, at 9:30 A.M.
on Tuesday, October 6, 1970.

Robert K. Pedersen,
Ore-Ida Foods, Inc.
Owyhee Plaza,
Boise, Idaho, at 9:00 A.M.
on Wednesday, October 7, 1970.

These depositions will be conducted pursuant to the provisions of the Federal Rules of Civil Procedure before a Notary Public or some other person duly authorized to administer oaths and take depositions, and will continue from day to day until completed, unless otherwise adjourned.

Dated: September 24, 1970.

PILLSBURY, MADISON & SUTRO
TURNER H. McBAINE
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD

By____________________________

Attorneys for Defendant
Standard Oil Company
of California

[RETYPED]

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

No. 52334-WTS

Deposition of RAYMOND C. TURNBULL, taken on behalf of the Defendant at 605 West Olympic Boulevard, in the City of Los Angeles, California, commencing at 10:10 a.m., on the 1st day of October, 1970, before Gloria Tepper, a Notary Public in and for the County of Los Angeles, State of California, pursuant to oral Stipulation.

APPEARANCES OF COUNSEL:

For Plaintiff:	**BERNARD M. HOLLANDER, Esq. and** **DONALD H. MULLINS, Esq.** **Anti-Trust Division** **U. S. Department of Justice** **Washington, D.C.**
For Defendant:	**MESSRS. PILLSBURY, MADISON & SUTRO** **By: WILLIAM E. MUSSMAN, Esq. and** **THOMAS J. KLITGAARD, Esq.** **225 Bush Street** **San Francisco, California**
For the Witness:	**RICHARD B. LYNN** **616 East Chapman Avenue** **Orange, California**

Q Well, then, Mr. McGee departed, and then what happened?

A After quite a while went by, and Mr. McGee -- they ran a complete survey in the South Pacific. The Kingdom of Tonga had agreed to buy their product, if it could be delivered cheaper than what they were paying coming out of Fiji Islands down to Tonga. I have a copy of what their full report -- their market report was, and it was worth while coming in. But the whole thing was predicated, as I found out later, on the purchase of a 90,000-barrel-a-day refinery in Singapore from Maruzin. M-a-r-u-z-i-n Oil Company, I believe.

And within that period of time, Governor Lee met with Mr. Cadwell and Mr. McGee in Hong Kong to discuss this. The whole thing fell into a cocked hat when the British Petroleum bought the refinery and Unoco didn't get it.

MR. HOLLANDER: Off the record.

(Whereupon a discussion ensued off the record.)

MR. MUSSMAN: While we were off the record, Mr. Hollander asked with respect to the Union report that the witness mentioned in his last answer. The witness had said that he does have the original of the report and will make it available to us

for copying.

Q Is that correct, Mr. Turnbull?

A That's right.

A   As far as stepping from one letter dated January 31 to March 8, there was communication between myself and Unoco, so the orderly development in one letter to another -- I can't assume that this was the next document after the Reese Taylor letter.

MR. MUSSMAN: I'd like this document marked as DDX 153, please.

(Whereupon the above-mentioned document was marked Defendant's Exhibit DDX-153 for identification by the Notary Public.)

MR. HOLLANDER: That's a two-page document?

MR. MUSSMAN: Yes.

Q   In the second paragraph, you refer to a Ron Pritchard. Who is Ron Prichard?

A   Ron Prichard was our Samoan director. That was required under the laws of American Samoa, to have one director who was a Samoan. He also was the agent for Polynesian Airlines; and he also had a family store there; and his mother, Mary Pritchard, ran the Rain Maker Hotel, the only hotel.

Q   Had Ron Pritchard written a letter to McGee?

A   Evidently, because I believe I had received a letter from Jim McGee to the effect that Ron Pritchard had written him and said something, I don't remember what it is. I guess this would have been an immediate answer back to McGee's letter, and I don't know what it would be.

Q The reference to the letter of April 17 in the first paragraph, do you see that?

A Yes.

Q We don't have that letter either. Is this one that might be in your files?

A It might be. I'll take a look, and if so you may have it.

MR. LYNN: It might be.

THE WITNESS: It would have to go under stuff from Unoco.

Q BY MR. MUSSMAN: Would you have any objection if at some convenient time and place, perhaps at your place or at your lawyer's office, we could review all the files that you have that pertain to this general subject, over there?

A No, I don't -- I don't know There are a lot of things in there that do not pertain, that are mixed up in the same letters.

Q I'm only interested in anything that pertains to the gasoline business over in Samoa and your dealings with these various companies, that's all I'm interested in. But obviously this letter of the 17th, if you have it, would deal with this.

A I may have just gone by that letter and not mailed it

---

to you -- had not sent it to you. It would have been on Unoco stationery, I think. Oh, yes.

D-39M

. I show you a document, marked DDX~~-101~~.

A Are you through with these two?

Q Yes, just put them right in front of you.

I ask you if you wrote and mailed this letter to Governor Lee on or about November 18, 1963.

A Yes.

Q In the third paragraph, you refer to the fact that Mr. McGee had written you a letter saying that he was going to be in Los Angeles the latter part of November of '63. Do you see that?

A Yes.

Q That letter, incidentally, we don't seem to have a copy of.

MR. MUSSMAN: Why don't we stop and get something to eat.

(Whereupon at 12:15 P.M. the noon recess was taken.)

(Whereupon at 1:45 P.M. the deposition was resumed.)

Q Now, in the paragraph starting at the bottom of that page, it says, "The report that Union made for area marketing indicates a good potential in Tahiti," and so forth, do you see that?

A Uh-huh.

Q Is this that report we were talking about as to feasibility?

A Yes.

Q So you had it by this time?

A Yes.

Q From Union. And this is the report that you are talking about?

A Yes.

Q And you sent this to Mobil for their information?

A What? What did I send?

Q Well, I better ask you: Did you send this report or give a copy of this report to Mobil?

A Not that I remember.

MR. LYNN: Mr. Mussman, may I take the liberty of showing Mr. Turnbull the handwritten documentation on the copy of "Appendix I - Area and Price Analysis," and ask him if that's his handwriting?

THE WITNESS: No, that's not my handwriting.

The answer is no.

Q BY MR. MUSSMAN: What is Appendix I?

MR. LYNN: That is, in fact, the Union Oil area and price analysis that we have been discussing earlier, that's part of it.

Q BY MR. MUSSMAN: Well, is it an appendix to something?

A It's the price analysis that you have been referring to.

Q On the document I have been handed appears the legend on the front, "Appendix I." It looks like it's an appendix to something, some other document. Is this the complete document that you got from Union Oil?

A As far as I know.

MR. LYNN: The companion piece to that is marked "Appendix II," and raises the same question.

MR. MUSSMAN: What is that? Is that here?

MR. LYNN: Yes, right there.

MR. MUSSMAN: Oh, I see, entitled, "Some less accessible statistics."

MR. HOLLANDER: May we have that marked for the record?

MR. MUSSMAN: Which?

MR. HOLLANDER: Both of them, D-39U DDX -- whatever it is, so that we have a reference.

MR. MUSSMAN: Well, Appendix I and Appendix II are one document.

THE WITNESS: They came together.

Q BY MR. MUSSMAN: They came together, and that's all that came from Union?

A As far as I know.

Q And this is the South Pacific study that you refer to, in this document; is that correct?

A Yes.

MR. MUSSMAN: Let's mark that, then, as DDX 155 for identification.

(Whereupon the above-mentioned document was marked Defendant's Exhibit D-39-U ~~DDX 155~~ for identification by the Notary Public.)

Q I have two documents that apparently were produced today from your files, one purports to be a letter from Mr. McGee to you, dated May 25, 1964, which I'll ask be marked D-34-X ~~DDX 156~~; and the other purports to be a copy of a letter from Mr. McGee to you, dated May 29, 1964, and I ask that that be marked as D-39-Y ~~DDX 157.~~

MR. HOLLANDER: Off the record.

(Whereupon a discussion ensued off the record.)

(Whereupon the above-mentioned documents were marked Defendant's Exhibits DDX 156 and DDX 157 respectively for identification by the Notary Public.)

Q You say that you were attaching CIF prices per Summit Industrial Corporation. Now, I don't have any attachment.

I do find out of your files a document that bears the designation TU 57, which purports to be a telegram from Shaw to Turnbull, dated June 12, 1964, and which purports to reflect certain prices. And I'll ask you if it's your recollection that these are the CIF prices per Summit Industrial Corporation that you were talking about in DDX 111?

A I received another telegram from Shaw which went -- ran over on two telegrams -- or on two sheets. Do you have that?

Q I'll see in a moment.

A I have the original in my file, which runs over on two pages. Wait a minute, that's June 12. That's this one here. That's the same one this is. I have another one, so I can't tell you about the date, but I agree that this would have been sent to me.

A Not necessarily. This might lead into the other telegram I'm telling you, because when Mr. Shaw first gave me the prices we went -- had a discussion about whether those prices could be reduced. And so there are two, this telegram and then there is another telegram. As I say, it's on two pages, and I don't know whether -- whether that's the one I'm referring to in this --

Q Well, you don't know what the attachment was and your files don't show?

A As I say, I don't know whether it is this one or the other one I have.

Q Well, we won't mark that one.

DDX 114. I might say, we are at a little bit of a disadvantage here, because none of your letters with the enclosures turned up in GAS files, so these are the only ones we have. I assume you didn't keep a copy of your enclosure for your files?

A I have the -- the only thing I would have sent to

Governor Lee would have been copies of it, so I have the original of the telegrams that I got. And that's why I know there is another telegram.

Q The last paragraph you refer to a visit -- visits, I guess -- by representatives of both Mobil and Asiatic to American Samoa.

A Yes.

Q Had you arranged for that, too?

A I don't know whether I can refer back to some of the other documents, whether they were in that specific time or whether one was passing through. I had telegrams from -- I think to backstop these things and what some representative coming up from Melbourne -- in fact -- wait a minute, wait a minute. Two representatives either from Shell or from Mobil were in American Samoa, and one of them had got sick and they took him home, and he had an operation. And I have all the correspondence on that, saying, "I'm sorry," they couldn't stay over. And I don't know whether this was from Fiji or from Melbourne, but they were there. I have correspondence with those gentlemen and why they were there, and they all covered the same reasoning.

Q Do you remember any of the names --

A No. I might know if I heard them, but I'd have to go back and look through my file again on what they were.

The fact that they were ineffective in the original -- for the original meaning of this thing, I stuck them away somewhere. I can't give you the names of them.

Q Well, you indicate while these representatives are coming you are going to meanwhile give to Governor Lee a proposal from the Summit Industrial.

A From Summit Industrial.

Q Were you working on all three of these deals?

A Yes. I was.

Q Pardon?

A Yes, I was.

Q No one of them was the governor's deal, then, one that he had pursued on his own?

A I'm not -- he never told me what he was doing.

Q It could have been, then?

Q I just see it says, "From your letter of August 6." Do you see that paragraph there?

A Yes.

Q We don't have a copy of that letter, so I can't refresh your recollection on that one, but it says, "From your letter of August 6, I realize the diesel fuel sold by Standard is around 16.5 cents a gallon." He says, "This gives us a margin of six cents a gallon."

So I'm saying, it is true, is it not, that his

---

calculations on the profitability selling price and --

A Is 16.5 cents a gallon.

Q Based on that being Standard's price?

A Yes.

Q Now, what was your understanding, that that was Standard's price to the fiching fleets, or to GAS, or to both, or to what?

A Without having those lists in front of me, I can't tell you.

Q And he says he got that from you through your letter of August 6; is that correct?

A Yes.

Q Do you know where you would have gotten the information Standard was selling the diesel at around 16.5 cents a gallon?

A I can't tell you right now where I got it. I could have gotten it off of the posted prices, or I could have gotten it off of something else, or what -- either the government told me they pay for it into the power houses. I can't tell you at this time.

Q BY MR. MUSSMAN: Did the government approve the project? That's the fourth condition.

A The proposal has never been approved or accepted by anybody.

Q Well, did you hear from them? Did they call you about it? Did they talk to you about it?

A I must have talked to them. I don't remember anything in writing.

Q In the third paragraph you state that you made your proposal known to Governor Lee and that he would act quickly.

A That's what he indicated to me.

Q But he did not?

A I say, there has been no action as far as I know of, to this date. I think there is some subsequent letter somewhere to Bill McCook, I don't know what the date is, which he agrees to meet with him.

Q Now, what was your firm commitment from Oceanic? Did you have a contract, or were you just relying upon the quotation that Mr. Shaw sent you?

A No, he agreed to it.

Q In writing?

A That may be a part of this whole thing. I don't know whether I have it firmly in writing or not, but I have a letter somewhere to the effect that he agrees to it.

Q You haven't seen it here today yet?

A It may be here, I don't know.

Q I have a document here that's numbered TU 073, and I don't know what it is. Maybe you can recognize it.

Q This was one of the initial handwritten things which I typed up when Mr. Shaw was in my office in Beverly Hills, in which he penciled out a general profitability and payout, I think the -- at the first meeting that I had in my office with Mr. Shaw.

Q BY MR. MUSSMAN: Now, Mr. Turnbull, I am through with my examination, based on the documents that I have. I have an uneasy feeling that I haven't seen all of your documents. And either through agreement with your counsel or by subpoena, I want to review your files, and then I will continue this deposition, only for the purpose of asking questions that might come up as the result of additional documents that I haven't seen yet. And I am saying this not because you haven't produced something that I wanted, it's just that all we have seen have been documents that Mr. Hollander copied from your files. So there may be additional ones that he didn't think were important or of any interest to him that might be of interest to me.

So subject only to that, I thank you and say that's all the questions I have at this time.

MR. HOLLANDER: I would object to that request, if it includes anything other than his files on the sale, distribution, marketing of petroleum products in American Samoa.

MR. MUSSMAN: I don't think it's up to you to object, Mr. Hollander.

MR. HOLLANDER: I do.

MR. MUSSMAN: On what basis can you object?

MR. HOLLANDER: I do.

MR. MUSSMAN: Oh, you object.

MR. HOLLANDER: Are you referring specifically to some of these things --

MR. LYNN: Well, there were two items specifically. one had to do with a UNOCO marketing survey, which I believe has now shown up in the course of the day here, and the other one, a lease on five acres of ground that was referred to. Those are the only two documents, specifically.

MR. MUSSMAN: I have in mind a number of documents where he says, "I have your letter of such and such a date," and I don't have it. Maybe it's not there, I don't know; but maybe it is, too.

MR. HOLLANDER: Well, if you would specify any documents that you think are missing --

MR. MUSSMAN: I don't know. You reviewed the files, not I.

MR. HOLLANDER: Excuse me, but if I could finish -- if you would specify any documents that you find alluded to that were not produced, then I'm sure that I would have no objection, and I can't see why counsel would. If you reviewed all his files on anything, I certainly think that's objectionable.

MR. MUSSMAN: Mr. Hollander, this isn't your client.

MR. HOLLANDER: Okay.

MR. MUSSMAN: And I don't think you can object --

MR. LYNN: Again, I think, because of Mr. Turnbull's rather long and varied experience, much of which I am totally unfamiliar with, the coconut processing and some of these other things, I had quite a time certainly in going through the files myself to pull out those things that, even though they related to many things, had some bearing or any bearing whatsoever; and as to those documents, I have no objection, and I'll even furnish them and give you a statement to the effect that that constitutes every document that I have in my possession or that Mr. Turnbull has that in any way relates to the supplying of petroleum products in American Samoa.

MR. MUSSMAN: Well, I think that I would be content with that sort of submission.

MR. LYNN: Fine.

CLIENT #	00001
GEN. CLASS. #	500
SUBJECT #	8826
SUB. FILE #	

November 9, 1970

United States v. Standard Oil Company of California - Civil Action No. 52334-WTS, N.D. California

Richard B. Lynn, Esq.
616 East Chapman Avenue
Orange, California 92667

Dear Mr. Lynn:

During the deposition of Mr. Raymond C. Turnbull, I requested the opportunity to review and copy all of Mr. Turnbull's files and records (other than those copied by Mr. Hollander and numbered TU-001 to TU-100 inclusive) which relate in any way to the marketing of petroleum products in American Samoa or to any of the documents copied by Mr. Hollander. You said that you would personally make the search for me and would furnish me with copies of all documents meeting this description. I agreed to rely on your efforts and your assurances. Would you kindly advise me of the status of this project.

You will recall that from time to time during Mr. Turnbull's deposition certain specific documents were referred to which should have been in his files but which we did not have. These documents are listed below. I have attempted to describe them as fully as possible, and I have also indicated alongside each description the reference in Mr. Turnbull's deposition where the document is mentioned. I certainly hope you can locate these:

1. The thirty-year lease entered into between Pacific Coconut Processing Corporation and the Government of American Samoa (39:23).

2. A letter from James McGee of UNOCO, Ltd., to Mr. Turnbull, dated April 17, 1963 reporting the receipt of a letter from Ron Pritchard, the Samoan Director of Pacific Coconut Processing Corporation (45:25).

3. A letter from James McGee of UNOCO, Ltd., to Mr. Turnbull enclosing a copy of UNOCO's South Pacific and American Samoa Petroleum Market Survey Report (marked as DDX-155 during the course of the deposition). This letter was written sometime prior to March 25, 1964 (115:16).

4. A letter from Mr. Turnbull to Mobil Oil Company, enclosing a copy of UNOCO'S above-mentioned Market Survey Report. This letter was written sometime prior to June 11, 1964 (144:8).

5. A two page telegram from J.T. Shaw, of Summit Industrial Corporation, to Mr. Turnbull, which contains Dr. Shaw's proposed diesel fuel prices CIF Pago Pago, American Samoa. This telegram was apparently the attachment to a letter from Mr. Turnbull to Governor H. Rex Lee, dated June 11, 1964. This letter was produced from Mr. Turnbull's files and bears the Document No. TU-043 and DDX No. 111. The telegram was sent prior to June 11, 1964 (149:10).

6. The enclosure to a letter from Mr. Turnbull to Governor Lee, dated July 1, 1964. This letter was produced from Mr. Turnbull's files and bears the Document No. TU-046 - TU-047 and DDX No. 115. The enclosure is described in DDX 115 as "the information and breakdown of Dr. Shaw (of Summit Industrial) on setting up a facility in Pago" (150:16).

7. The enclosure to a letter from Mr. Turnbull to Dr. Shaw, dated October 1, 1964. This letter was produced from Mr. Turnbull's files and bears the Document No. TU-060 and DDX No. 117. The enclosure contains a list of the requirements for Mogas, Kerosene and Diesel of the Kingdom of Tonga (164:10).

8. A letter from Mr. Turnbull to Dr. Shaw, dated August 6, 1964, enclosing the price that Standard Oil Company of California is charging for Diesel fuel on American Samoa (approx. 16.5 cents per gal.) (169:23).

9. A letter from James McGee to Mr. Turnbull, saying that Mr. McGee is going to be in Los Angeles the latter part of November, 1963, and will be available to discuss the Samoan bulk fuel plant. This letter was written sometime prior to November 18, 1963 and was mentioned in a letter from Mr. Turnbull to Governor Lee, dated November 18, 1963, which was produced from Mr. Turnbull's files and bears the Document No. TU-023 - TU-024 and DDX No. 101 (71:2).

Thank you for your courtesy and help.

Sincerely yours,

W.E. Mussman

JSM .-V
~~[illegible]~~
~~RHP~~
~~DWS~~

RICHARD B. LYNN
ATTORNEY AT LAW
616 EAST CHAPMAN AVENUE
ORANGE, CALIFORNIA 92667
(714) 633-6410

December 14, 1970

RECEIVED
DEC [illegible] 1970
JAMES O. SULLIVAN

James O. Sullivan
P.O. Box 362
San Diego, California 92112

Dear Jim:

REFERENCE: PACIFIC COCONUT-STANDARD OIL

Please forgive my failure to respond earlier. I moved my office on December 1, 1970, and the chaotic state which resulted has been something less than pleasant.

I enclose herewith a copy of the Turnbull deposition in the event that document was not previously in your hands. I have received from Mr. William Mussman, Esq., Council for Standard, a request for certain other document copies, and have asked Mr. Turnbull to attempt to gather those items together. Prior to forwarding those documents to Mr. Mussman I will ask your approval thereof. Certain of those papers relate to items which I feel are completely immaterial to the matter of Standard Oil' possible illegal practices.

Thank you for your continued courtesy and cooperation.

Very truly yours,

Richard Lynn
RICHARD B. LYNN

RBL/dmc
Enclosures

[STAMP]
FILED
DEC 31 1970
CLERK, U.S. DIST. COURT
SAN FRANCISCO

PILLSBURY, MADISON & SUTRO
TURNER H. McBAINE
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company
of California

United States District Court for the

Northern District of California

UNITED STATES OF AMERICA,
Plaintiff,

vs.

STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

No. 52334-WTS
Civil

NOTICE OF TAKING DEPOSITION

To: Plaintiff and its attorneys of record:

PLEASE TAKE NOTICE that on Friday, January 22, 1971, at the hour of 10 o'clock a.m., the undersigned will take the deposition of RAYMOND C. TURNBULL at the law offices of Messrs. Lawler, Felix & Hall, 605 West Olympic Boulevard, Los Angeles, California.

Mr. Turnbull is being subpoenaed to bring with him any and all writings which were prepared between July 1, 1956, and date, which refer in any way to the storage, purchase, sale, distribution or use of petroleum products in American Samoa, excepting documents TU-001 - TU-100 previously produced.

This deposition will be conducted pursuant to the provisions of the Federal Rules of Civil Procedure before a Notary Public or some other person duly authorized to administer oaths and take depositions, and will continue from day to day until completed, unless otherwise adjourned.

Dated: December 31, 1970.

PILLSBURY, MADISON & SUTRO
TURNER H. McBAINE
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD

By ______________________

Attorneys for Defendant
Standard Oil Company
of California

RICHARD B. LYNN
ATTORNEY AT LAW
550 NEWPORT CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660
(714) 644-8880

January 13, 1971

Mr. William E. Mussman
PILLSBURY, MADISON & SUTRO
225 Bush Street
San Francisco, California 94104

Dear Mr. Mussman:

REFERENCE: UNITED STATES VS.
STANDARD OIL,
#52334 WTS

This will acknowledge our telephone conversation of January 13, 1971.

You have this writer's assurance that there is nothing in the files of Mr. Raymond C. Turnbull respecting those items referred to in your deposition heretofore noticed for January 22, 1971. Those documents previously marked TU-001 through TU-100 constitute the totality of the Turnbull file respecting the above matter.

I further understand that based on the above assurance, the deposition of January 22, 1971 will not now be held.

Thank you for your courtesy and cooperation in this matter.

Very truly yours,

Richard B. Lynn
RICHARD B. LYNN

RBL/dmc
cc: Bernard Hollander
Raymond Turnbull

Richard B. Lynn
616 East Chapman Ave
Orange, Calif
714 ~~633 6410~~
644-8880

Lyle Jones

1-13-71

Talked to Mussman & told him
there were no other docs - WEM said
we had produced same at deposition [illegible]
(?) WEM wanted PCPC because [illegible]
another attorney has it.

WEM agreed to no deposition.

Lynn remembers no docs
produced by Lynn & not marked "TU-"

SULLIVAN, MARINOS, AUGUSTINE & DELAFIELD
ATTORNEYS AT LAW
ONE ELEVEN ELM STREET
POST OFFICE BOX 362
SAN DIEGO, CALIFORNIA 92112
(714) 232-3883

DON AUGUSTINE
JAMES O. SULLIVAN
JAMES S. MARINOS
GEORGE S. DELAFIELD
ROBERT P. LOWELL
CARLOS A. CAZARES
PETER V. BRUCHER
STEPHEN A. NYE
WAYNE W. PITLUCK
GEORGE S. MARINOS
RONALD R. HRUSOFF
RONALD L. STYN
ROBERT A. PRAHL
PETER H. FLOURNOY
DONALD W. SCHMIDT
LAWRENCE R. ALESSIO
GARY M. CAYLOR

LYLE L. JONES, OF COUNSEL

SAN FRANCISCO
CROCKER PLAZA SUITE 2100
SAN FRANCISCO, CA 94104
(415) 397-7887

January 26, 1971

✓ Richard B. Lynn, Esq.
616 East Chapman Avenue
Orange, California 92667

Re: McCook - Standard Oil

Dear Dick:

I am in the process of tying together the loose ends of this investigation, but I am still impeded by the lack of information of the events subsequent to August 13, 1965.

Attached please find copies of letters dated August 13, 1965 and August 25, 1965. Upon reading the letters, it becomes evident that some events occurred between Mr. McCook and Governor Lee during the week of August 25, 1965. This needs to be explored.

If Mr. McCook is going to be in the area soon, perhaps you can bring him down to confer with me in the near future.

Sincerely,

Lyle L Jones
Lyle L. Jones

LLJ:js
Enclosures

[illegible]

AUGUST 13, 1965

7

GOV. HON H. REX LEE
OFFICE OF TERRITORIES
DEPARTMENT OF INTERIOR
WASHINGTON 25, D.C.

DEAR GOVERNOR:

[illegible] TO ESTABLISH A PETROLEUM BULK FACILITY IN PAGO PAGO HARBOR, AMERICAN SAMOA, GEARED TO SUPPLYING ALL OF THE GOVERNMENT'S AND [illegible] REQUIREMENTS.

WE PROPOSE, THEREFORE, THAT A LONG-TERM CONTRACT BE ENTERED INTO BETWEEN OURSELVES, THE GOVERNMENT OF AMERICAN SAMOA, STARKIST FOODS INC., VAN CAMP AND PAN AMERICAN AIRWAYS, IN WHICH WE WILL AGREE TO SELL AND YOU WILL AGREE TO BUY TWO GRADES OF DIESEL FUEL, JP-1A JET FUEL, MOTOR GASOLINE AND KEROSENE WITH PRICES BASED UPON THE PALAU-BUKOM POSTED PRICE SCHEDULE WHICH WILL VARY WITH THE WORLD PETROLEUM MARKET. ALL LUBES, GREASES AND SOLVENTS CAN EASILY BE FURNISHED SO AS TO ROUND OUT THE COMPLETE LINE OF PETROLEUM PRODUCTS.

WE HAVE A FIRM COMMITMENT FROM OCEANIC PETROLEUM CORPORATION OF NEW YORK TO DELIVER THE PRODUCTS CIF TO US IN PAGO PAGO. BASED UPON THE AUGUST 3, 1965 PALAU-BUKOM POSTED PRICE SCHEDULE, OUR DELIVERED PRICE OF DIESEL PRODUCTS TO THE GOVERNMENT POWERHOUSE VIA METERED PIPELINES, WOULD BE .114 PER GALLON. THE MARINE DIESEL WOULD BE DELIVERED DOCKSIDE TO THE FISHING FLEET AT .1125 PER GALLON. THE JP-1A JET FUEL PRICE INTO PAA TANKS WOULD BE .1700 PER GALLON AND THE 93 OCTANE MOTORGAS WOULD BE .1630 PER GALLON.

THE COST OF THE FUEL, INVESTMENT AMORTIZATION, SUPPORTING FACILITIES AND OPERATION ARE INCLUDED IN THE ABOVE QUOTED PRICES. NOT INCLUDED IN ANY COSTS ARE TAXES IMPOSED BY G.A.S. IT IS OUR UNDERSTANDING THAT THE FISH COMPANIES AND THEIR CONTRACTED FISHING FLEET PAY NO FUEL TAXES, THE SAME EXEMPTION APPLYING TO GOVERNMENT. THE 17¢ PER-GALLON QUOTED FOR JP-1A COULD BEAR A REASONABLE TAX AND STILL BE UNDER THE PRICE NOW PAID FOR "STANDARD" FUEL.

DEPENDING UPON THE IRS APPROVED DEPRECIATION SCHEDULE TO BE USED ON THE TERMINAL BULK FACILITY WE WOULD UNDERTAKE TO TURN THE WHOLE FACILITY BACK TO THE GOVERNMENT FOR ONE DOLLAR IN SIXTEEN YEARS AND LEASE THE FACILITY AT A FAIR RENTAL FEE.

IT HAS BEEN SUGGESTED BY "STARKIST" THAT YOU ACT AS THE CATALYST IN THIS PROGRAM. THE PRINCIPALS AND THE CHAIN OF COMMAND IS AS FOLLOWS: OCEANIC PETROLEUM CORPORATION, J. T. SHAW, PRESIDENT WILL DELIVER THE PRODUCT TO PAGO PAGO. A NEW SAMOA CORPORATION, TO BE FORMED, AND TO BE HEADED BY MYSELF,

W. R. McCOOK

GOVERNOR H. REX LEE
PAGE TWO

WILL TAKE DELIVERY OF THE PRODUCTS INTO OUR TERMINAL FACILITY AND DISPENSE THE PRODUCTS TO GOVERNMENT, INDUSTRY AND AIRLINE.

IF THE FOREGOING PROPOSAL IS ACCEPTABLE IN PRINCIPLE, IT IS REQUESTED THAT A MEETING BE HELD WHILE YOU ARE STILL IN THE U.S. FOR THE PURPOSE OF DISCUSSING AND FINALIZING ARRANGEMENTS AND POSSIBLY EXECUTING A LETTER AGREEMENT BETWEEN ALL INTERESTED PARTIES.

VERY TRULY YOURS,

WILLIAM R. McCOOK

WRMcC:vmr

August 25, 1965

Dear Mr. Shaw:

The formal proposal was sent by William McCook to Governor Lee in Washington. Three days later McCook followed it up with a phone call for an appointment with the Governor in Washington. It was decided that McCook and the Governor would meet sometime this week. In the meantime, I have rounded up the fish companies and they are waiting for the Governor to come out here and act as the catalyst to obtain the letter agreement from all parties.

The deal looks good and if there are any flaws I can't find them.

I can't find Pulau Bukom on my world map and can only surmise that it is in the Strait of Malacca. Is this so? I must get ready for the inevitable question, "What will be the source of the product in the event Southeast Asia goes under.?" I have told McCook that a source could be developed out of Colon from the Ludwig-Continental people but I believe it necessary for you to advise me on an alternative source, inasmuch as you will be the supplier.

It is the opinion of Starkist that Standard Oil will leave Pago Pago if we obtain a long term contract from Industry and Government. I cannot subscribe to that opinion, but in the event they do leave we would become the monopoly. We would darn well have to be sure of our supply.

I talked to Jerome O'Brien, head of the Union Bank Oil Department and U.S. Nato oil expert, concerning a long range possibility of putting in a refinery at Pago Pago - and what attitude the Defense Dept. would take concerning such a venture. He believes it would be negative. I thought the present conflict might merit a crash program using Government money.

Before the formal proposal was made to Lee, he had called me from Washington to advise me that his interest was still high on the new Terminal. I believe we have a live one after this long time and I will keep you advised by phone as the deal breaks.

Yours very truly,

Raymond C. Turnbull

TU076

8756 Holloway Drive
Los Angeles 69, Calif.

RICHARD B. LYNN
ATTORNEY AT LAW
550 NEWPORT CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660
(714) 644-8880

February 19, 1971

Mr. Raymond C. Turnbull
8681 Wilshire Boulevard
Beverly Hills, California

Dear Ray:

REFERENCE: McCOOK-STANDARD OIL ?

Mr. Lyle L. Jones' letter of January 26, 1971, together with the attachments thereto are enclosed.

Mr. Jones' inquiry respecting events occurring between Mr. McCook and Governer Lee during the week of August 25, 1965 are in need of exploration. At such time as you have developed an answer to Mr. Jones' question, will you be good enough to contact this office to make a determination as to whether a San Diego conference is now in order?

Very truly yours,

s/ Richard B. Lynn
RICHARD B. LYNN

RBL/dmc
enclosures

1. McCook never met with Lee although appt set up tentatively – Telegrams prove inte

2. Top Billing T + McCook - Standard Oil.
   a. Suit deals with services over period of time made fruitless by S.O. lowering prices – "restraint of Trade"

3. McC letter – Aug 13, 1965 – Proposal
   Ret - Shaw - Aug 25, 1965 – From 16th to 21st – meeting to be -held. Lee - McCook - Refers to Bill's letter of Oct 5, 1965 - still interested.

March 9, 1971

Standard Oil Company of California - United States v. (American Samoa)

Richard B. Lynn, Esq.
616 East Chapman Avenue
Orange, California 92667

Dear Mr. Lynn:

Inasmuch as you did not advise me until 5:10 P.M. yesterday afternoon that you would not have all the McCook documents available today, after representing to us for a week that they would be available, I believe that we would prefer to notice Mr. McCook's deposition and proceed in the customary manner.

Note that when the subpoena is served, it will call for all documents relating to the designated subject matters, whether or not prepared or sent under the signature of any specific person.

Yours very truly,

Thomas J. Klitgaard

ORIGINAL
FILED
MAR 9 1971
CLERK, U. S. DIST. COURT
SAN FRANCISCO

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company of California

United States District Court for the
Northern District of California

UNITED STATES OF AMERICA, Plaintiff, vs. STANDARD OIL COMPANY OF CALIFORNIA, Defendant.	No. 52334-SC Civil

NOTICE OF TAKING DEPOSITION

To plaintiff and its attorneys of record:

PLEASE TAKE NOTICE that on **Monday**, March 22, 1971, at the hour of 9:00 A.M., the undersigned will take the deposition of Richard B. Lynn, Esq., at the law offices of Messrs. Lawler, Felix & Hall, 605 West Olympic Boulevard, Los Angeles, California.

Please take further notice that a Subpoena Duces Tecum will be served upon the deponent which will require him to bring to the deposition all documents described in Attachment "A" hereto.

The deposition will be conducted pursuant to the provisions of the Federal Rules of Civil Procedure before a

Notary Public or some other person duly authorized to administer oaths and take depositions, and will continue from day to day until completed, unless otherwise adjourned.

Dated: March 9, 1971.

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE

By ____________________
Attorneys for Defendant
Standard Oil Company
of California

ATTACHMENT "A"

All the following described documents*:

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, including (but not limited to) all documents delivered to the deponent or any of the above persons by, or obtained by the deponent or any of the above persons from William R. McCook, Raymond C. Turnbull, or their respective partners, associates, employees, agents, attorneys or representatives, whether or not prepared over the signature of the deponent or any of the above persons.

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company of California

ORIGINAL
FILED
MAR 9 1971
CLERK, U. S. DIST. COURT
SAN FRANCISCO

United States District Court for the
Northern District of California

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

No. 52334-SC
Civil

NOTICE OF TAKING DEPOSITION

To plaintiff and its attorneys of record:

PLEASE TAKE NOTICE that on Monday, March 22, 1971, at the hour of 10:00 A.M., the undersigned will take the deposition of William R. McCook at the law offices of Messrs. Lawler, Felix & Hall, 605 West Olympic Boulevard, Los Angeles, California.

Please take further notice that a Subpoena Duces Tecum will be served upon the deponent which will require him to bring to the deposition all documents described in Attachment "A" hereto.

The deposition will be conducted pursuant to the provisions of the Federal Rules of Civil Procedure before a

Notary Public or some other person duly authorized to administer oaths and take depositions, and will continue from day to day until completed, unless otherwise adjourned.

Dated: March 9, 1971.

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE

By

Attorneys for Defendant
Standard Oil Company
of California

ATTACHMENT "A"

All the following described documents*:

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, whether or not prepared over his or their signatures.

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

(Retyped)

Suite 835

March 15, 1971

Lyle Jones, Esquire
2055 Third Avenue
San Diego, California 92112

Dear Mr. Jones:

REFERENCE: STANDARD OIL-AMERICAN SAMOA

I have your letter of January 26, 1971. Please excuse my delay in answering, and trust that the following suggestion will obviate any problems incurred in that delay.

Standard Oil has noticed Mr. McCook's Deposition at this office on Tuesday, March 23, 1971 at 10 a.m. Mr. Bernard Hollander has advised me that he will be present at the Deposition. I spoke with Mr. Ray Turnbull this morning and suggested that Mr. McCook, Mr. Turnbull, and myself have an early breakfast that morning for purposes of review.

If your calendar is such as to permit your being in the Newport Beach area on March 23, 1971 at or shortly after 12 noon, I believe a meaningful meeting between yourself, Mr. McCook, and this writer would permit answering of the questions posed in your earlier letter. I believe this would be the most expedient way to effect a meeting, and additionally you might have an opportunity to speak with Mr. Hollander.

If this is satisfactory with yourself please let me know, and I can arrange to have you picked up at the Orange County Airport, which is approximately 10 minutes from this office.

Will you be good enough to ask you secretary to change her records to indicate my address as the above.

Thank you for your continued courtesy and cooperation.

Very truly yours,

RICHARD B. LYNN

RBL/dmc

(Retyped)

V
WU TELTEX WSH
D060(2033)

PM&S SFO

PM&S SFO

TELEX SFO PAID 15 3/17/71

BERNARD M. HOLLANDER, ESQ.
ATTORNEY , U.S. DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
WASHINGTON D. C. 20530

RWMCL:CDM:BMH
60-57-193

DUE TO INABILITY TO SERVE WILLIAM MCCOOK WITH SUBPOENA, WE HAVE PUT OVER HIS DEPOSITION AND THAT OF LYNN TO TUESDAY, MARCH 23,1971, SAME HOURS. DEPOSITIONS WILL BE HELD IN LYNN'S OFFICE, SUITE NO. 835, 555 NEWPORT CENTER DRIVE, NEWPORT BEACH, CALIFORNIA 92660. AMENDED NOTICE TO FOLLOW BY MAIL.

CHARLES A. STORKE
FOR
PILLSBURY, MADISON & SUTRO
WU TELTEX WSH
203)

PM&S SFO

ORIGINAL
FILED
MAR 18 1971
CLERK, U. S. DIST. COURT
SAN FRANCISCO

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company of California

United States District Court for the
Northern District of California

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

No. 52334-SC
Civil

AMENDED NOTICE OF TAKING DEPOSITIONS

To plaintiff and its attorneys of record:

PLEASE TAKE NOTICE that on Tuesday, March 23, 1971, at the times indicated below, at the law office of Richard B. Lynn, Esq., 550 Newport Center Drive, Suite No. 835, Newport Beach, California 92660, the undersigned will take the depositions upon oral examination of each of the following:

Richard B. Lynn at the hour of 9 A.M.
Wm. R. McCook at the hour of 10 A.M.

Please take further notice that a Subpoena Duces Tecum will be served upon Mr. Lynn which will require him to bring to the deposition all documents described in Attachment

"A" hereto and that a Subpoena Duces Tecum will be served upon Mr. McCook which will require him to bring to the deposition all documents described in Attachment "B" hereto.

The depositions will be conducted pursuant to the provisions of the Federal Rules of Civil Procedure before a Notary Public or some other person duly authorized to administer oaths and take depositions, and will continue from day to day until completed, unless otherwise adjourned.

Dated: March 17, 1971.

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE

By Charles A. Storke
Attorneys for Defendant
Standard Oil Company
of California

ATTACHMENT "A"

All the following described documents*:

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, including (but not limited to) all documents delivered to the deponent or any of the above persons by, or obtained by the deponent or any of the above persons from William R. McCook, Raymond C. Turnbull, or their respective partners, associates, employees, agents, attorneys or representatives, whether or not prepared over the signature of the deponent or any of the above persons.

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

ATTACHMENT "B"

All the following described documents*:

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, whether or not prepared over his or their signatures.

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

DEPOSITION SUBPOENA — TESTIFY OR PRODUCE DOCUMENTS OR THINGS (Revised Oct. [illegible]) D. C. Form No. [illegible]

United States District Court

FOR THE

Central District of California

UNITED STATES OF AMERICA,
Plaintiff,

vs.

STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

CIVIL ACTION FILE NO. 52334-SC

TO RICHARD B. LYNN

YOU ARE COMMANDED to appear at the law office of Richard B. Lynn, Esq., 550 Newport Center Drive, Suite No. 835 in the city of Newport Beach on the 23rd day March , 1971 , at 9 o'clock A. M. to testify on behalf of defendant, Standard Oil Company of California at the taking of a deposition in the above entitled action pending in the United States District Court for the Northern District of California and bring with you[1]

All documents described in Attachment "A" hereto.

Dated March 17, 1971

Attorney for Defendant, Standard Oil Company of California

Address 225 Bush Street, San Francisco, California 94104

Clerk.

By

Deputy Clerk.

[1] Strike the words "and bring with you" unless the subpoena is to require the production of documents or tangible things in which case the documents and things should be designated in the blank space provided for that purpose.

RETURN ON SERVICE

Received this subpoena at on
and on at
served it on the within named
by delivering a copy to h and tendering to h the fee for one day's attendance and the mileage allowed by law.[2]

Dated:

, 19

By

Service Fees
Travel $
Services

Total $

Subscribed and sworn to before me, a this
day of 19

---

[2] Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the [illegible] or an officer or agency thereof. 28 USC 1825.

Note.—Affidavit required only if service is made by a person other than a United States Marshal or his [illegible]

ATTACHMENT "A"

All the following described documents*:

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, including (but not limited to) all documents delivered to the deponent or any of the above persons by, or obtained by the deponent or any of the above persons from William R. McCook, Raymond C. Turnbull, or their respective partners, associates, employees, agents, attorneys or representatives, whether or not prepared over the signature of the deponent or any of the above persons.

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

DEPOSITION SUBPOENA TO TESTIFY OR PRODUCE DOCUMENTS OR THINGS (Revised Oct. 1959) D. C. Form No. [illegible]

United States District Court

FOR THE

Central District of California

UNITED STATES OF AMERICA,
Plaintiff,

vs.

STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

CIVIL ACTION FILE NO. 52334-SC

TO WILLIAM R. McCOOK

YOU ARE COMMANDED to appear at the law office of Richard B. Lynn, Esq., 550 Newport Center Drive, Suite No. 835 in the city of Newport Beach on the 23rd day March , 1971 , at 10 o'clock A. M. to testify on behalf of defendant, Standard Oil Company of California at the taking of a deposition in the above entitled action pending in the United States District Court for the Northern District of California and bring with you[1]

All documents described in Attachment "A" hereto.

Dated March 17 , 19 71

Attorney for Defendant, Standard Oil Company of California
Address 225 Bush Street, San Francisco, California 94104

Clerk.

By
Deputy Clerk.

[1] Strike the words [illegible] if the subpoena is to require the production of documents or tangible things, in which case the documents and things should be designated in the blank space provided for that purpose.

RETURN ON SERVICE

Received this subpoena at on
and on at
served it on the within named
by delivering a copy to h and tendering to h the fee for one day's attendance and the mileage allowed by law.[2]

Dated:
, 19

By

Service Fees
Travel $
Services
Total $

Subscribed and sworn to before me, a this
day of 19

---

[2] Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

Note.—Affidavit required only if service is made by a person other than a United States Marshal or his deputy.

ATTACHMENT "A"

All the following described documents*.

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale distribution. or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, whether or not prepared over his or their signatures.

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

At[illegible]
Sl[illegible]

3-17-71
Edward Rettman 2/2 -
WH 4-[illegible]
27 William St
NYC 10005
Mr. Klitgaard - Jan 11

Saw Shaw
No papers

Xerox copies
① RT [illegible] Shaw [illegible] [illegible]
to ITS
② 4/14/64
ITS Shaw to RCT [illegible]
③ 4/13/64
RT to ITS [illegible]
④ 10/21/64 TL 63
RT to ITS
⑤ 7/2[illegible]/64 [illegible]
RT to ITS

⑥ 7/1/64 TL 48
RT to HRLee 47
⑦ 6/8/64 TL 57.
RT to ITS

TSK
Talking to ITS about
[illegible] for not
going in with RT
in AS project.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) Civil Action File No. 52334-SC
STANDARD OIL COMPANY OF CALIFORNIA,)
Defendant.)

Deposition of RICHARD B. LYNN, taken on behalf of the defendant, at 550 Newport Center Drive, Newport Beach, California, commencing at 9:15 a.m., on the 23rd day of March, 1971, before Vickie Crawford, a Notary Public in and for the County of Los Angeles, State of California, pursuant to the annexed stipulation.

APPEARANCES OF COUNSEL:

For the Plaintiff:
U. S. DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION,
By: BERNARD M. HOLLANDER, Esq.
and DONALD MULLENS, Esq.,
Washington, D.C. 20530

For the Defendant:
PILLSBURY, MADISON & SUTRO,
By: THOMAS J. KLITGAARD, Esq.
and CHARLES A. STORKE III, Esq.,
225 Bush Street,
San Francisco, California 94104

INDEX

WITNESS:	DIRECT	CROSS
Richard B. Lynn		
(By Mr. Klitgaard)	4	
(By Mr. Hollander)		19

It is stipulated by and between counsel for the parties that any depositions taken in preparation for the trial of the case are taken pursuant to Rule 26 and all objections are reserved to the time of trial.

It is further stipulated that both sides waive the requirement that the witness sign his deposition before the same notary public who takes the deposition, but instead he may sign it before any notary public.

It is further stipulated that if any of the depositions are not filed with the reporter and the Clerk of the Court 30 days before trial, a certified copy of the deposition may be substituted by counsel for the original.

It is further stipulated that wherever it is necessary to use copies or reproductions of the original documents that had been produced insofar as they were originals, there will be no objection from either side to the use of the copies. Where the copy is not completely legible an effort will be made to substitute either a legible copy or the document.

RICHARD B. LYNN,

called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KLITGAARD:

Q Will you state your full name, please.
A Richard B. Lynn, L-y-n-n.
Q What is your business address, Mr. Lynn?

A 550 Newport Center Drive, Suite 835, Newport Beach, Zip Code 92660.
Q What is your occupation, sir?
A I am an attorney.
Q Are you admitted to practice in California?
A In California, that's correct.
Q Have you been employed to represent William R. McCook in connection with possible litigation with Standard Oil Company of controlling petroleum supply or distribution in American Samoa?
A I have.
Q How long have you been so retained?
A For approximately six months. Six or seven months.
Q Do you know if any other attorneys have been retained by Mr. McCook in connection with this possible litigation against Standard Oil Company of California?
A I have associated the San Diego firm of Sullivan, Augustine, et al., for purposes of a preliminary consideration of the merits of a possible lawsuit.
Q Do you know the address of that firm offhand?
A I am sorry. I don't.
Q Is there any particular person with whom you have dealt at this Sullivan, Augustine firm?
A With Mr. Sullivan, Mr. Jim Sullivan.
Q Anyone else?
A And Mr. Lyle, L-y-l-e, Jones.
Q Have any documents been delivered to you by

Mr. McCook in connection with said representation; that is, documents that refer to the supply or distribution of petroleum products in American Samoa?

A Various documents have been, in fact, delivered to me, either from Mr. McCook or Mr. Raymond Turnbull. I am not sure, you know, out of whose office they came, but I think probably in answer to your question it could be fairly stated, yes, there have been documents delivered to me.

Q Do you also represent Mr. Raymond C. Turnbull?

A I was present at the taking of Mr. Turnbull's deposition. I consider my client to be Mr. McCook.

Q Do you have a formal employment agreement with Mr. Turnbull?

A No, I do not.

Q Do you have a formal employment agreement with Mr. McCook?

A No, I do not.

Q Do you have an oral or informal employment agreement with Mr. McCook?

A I would like the record to show since approximately 1967 I've represented Mr. McCook in numerous business transactions and all of them have been by virtue of an oral agreement. There has never been any written retainer agreement as such.

Q Is it fair to state, then, that your representation of Mr. Turnbull at the Turnbull deposition was incidental to your representation of Mr. McCook in connection with this litigation?

A I think that is a fair statement.

Q Apart from the one time you appeared for Mr. Turnbull at his deposition, have you represented him on any other occasion in connection with any other matter?

A Any other matter?

Q Yes.

A Mr. Turnbull?

Q Yes.

A No.

Q Do you have any documents in your possession or under your control that have been received from employees, agents, associates, partners, representatives, other persons acting for Mr. McCook or for Mr. Turnbull, as opposed to documents you might have received just directly from Mr. McCook or Mr. Turnbull?

A I think it's a safe thing to say that the documents that were presented are part of the record in the earlier Turnbull deposition and are the totality of the documents that I have.

Q Now, that didn't answer my question. I asked if any documents were in your possession or had been received by you from persons other than Mr. McCook directly or Mr. Turnbull directly, through partners, agents, representatives or employees or persons of that nature.

A No, I think not.

Q In other words, every document you got --

A Came either from Turnbull or McCook.

Q Right. If I asked the same question about receiving documents from agents or employees of Mr. Turnbull, I take it your answer would be the same.

A It would be the same.

Q Now, you have been served with a subpoena, have you not?

A Yes.

Q And you are appearing here today pursuant to that subpoena?

A That's correct.

Q The subpoena called for the production of certain documents. What I think we'll do now is proceed down the paragraphs of the subpoena and ask you what documents you may have which may be responsive to those paragraphs.

I might state for the record that documents as called for by the subpoena means all written or graphic material, wherever located, in the possession or under the control of the deponent or his partners, associates, employees, agents, attorneys or representatives, including but not limited to all documents delivered to the deponent or any of the above persons by or obtained by the deponent or any of the above persons from William R. McCook, Raymond C. Turnbull, or their respective partners, associates, employees, agents, attorneys or representatives, whether or not those documents were prepared over the signature of the deponent or any of the above persons.

Do you have that description in mind, Mr. Lynn, or would you like me to repeat it again?

A Well, I'm not concerned with the totality of the documentations that originated over the signatures of either

Mr. Turnbull or Mr. McCook or the multiple correspondence that came from various governmental officers, which are already the subject matter of an earlier deposition. If beyond that you are referring to documentations that went out over my signature --

Q No. Over anyone's signature in connection with this matter, namely, the supply or distribution of petroleum products in American Samoa that may be in your possession from the government of American Samoa or the American Samoa Department of Interior, over the signature of a canner, such as Van Camp of Starkist, over the signature of another potential supplier. In other words, over the signature not only of Mr. McCook or Mr. Turnbull or their representatives, but over the signature of anyone else that may relate to the subject matter who qualifies.

A I think I understand ~~your~~ the subject matter of your ~~deposition~~ inquiry.

Q So that you may be assisted, Mr. Lynn, I'll hand you a copy of Attachment A to your subpoena and you can look at it as we go down through the various categories.

Paragraph 1 of the subpoena calls for all documents which pertain in whole or in part to storage, purchase, sale, distribution or use of petroleum products in American Samoa.

Do you have documents responsive to that paragraph here with you today?

A I think possibly, Mr. Klitgaard, by reference to my letter to Mr. Mussman of your office on January 13th of 1971 in which I indicated that:

"You have my assurance that there is

nothing in the files respecting those items referred to in your deposition heretofore noticed for January 22, 1971. Those documents previously marked TU-001 through TU-100 constitute the totality of the file in respect to the above matter."

I honestly hope we're not going to sit here today and take each one of those documents and go through and reiterate the same things we went through before.

Q Let me ask you this: Have you gone through the subpoena and read the paragraphs and the types of documents called for and have you looked in your records to see if you have any of the types of documents called for in the subpoena?

A I think I can honestly make the same statement that I made in my earlier letter of January 13th in response to each and every paragraph of your Attachment A to the subpoena served upon me Sunday morning.

Q What answer is that?

A That you have them all or they are already a matter of record.

Q Now, do you have records with you today containing those documents?

A You mean do I have each of the TU-001 through TU-100?

Q Yes.

A I have some of them. I may not have all of them here.

Q Do you recall telling me last week that certain

documents were in the possession of Mr. Sullivan and Mr. Jones in San Diego and you did not have them in your possession, documents that have been delivered to you by Mr. McCook?

A I think what I said, Mr. Klitgaard, was that I was not completely comfortable at that time with the unequivocal statement ~~at that time~~ that everything was in this office or had been ~~but~~ previously made a part of the earlier deposition. I'm saying to you now I am comfortable in that feeling. In other words, I've had a chance to review the things and think that I can make the same statement with reference to each of these subparagraphs as I did in my letter to your office on January 13th.

Q In other words, is what you are telling me is that the documents that have previously been produced and numbered TU-001, et cetera, are all the documents in your possession or control or under the possession or control of Sullivan, Augustine, in San Diego that relate to the various paragraphs of the subpoena?

A Yes, I can make that representation.

Q Have you made copies of any of these documents and delivered those copies to the Department of Justice?

A No. I think -- excuse me.

Mr. Hollander, I don't think there is any secret about the file.

MR. HOLLANDER: As you said on the record and as Mr. Turnbull said on the record, the documents made were numbered by the government TU-100.

MR. KLITGAARD: Let me ask the witness --

(Whereupon the record was read.)

Q BY MR. KLITGAARD: Did you provide your files to the Department of Justice to review? That is, did you provide the Turnbull and McCook documents?

A No.

Q How did the Justice Department obtain copies of those documents, then, if you know?

A I am not qualified to answer that question.

Q At any time prior to today, have you made any files that relate to any of the subject matters called for in the subpoena available to the Department of Justice for its review?

A No.

Q Have you made any documents in those files available to the Department of Justice for its review?

A No.

Q Did you deliver the originals of any documents at any time to the Department of Justice for its review?

A No.

Q You understand when I'm referring to the Department of Justice, I'm referring to the agents and representatives of the Department of Justice, such as Mr. Hollander, Mr. Mullens, or other persons connected with the Antitrust Division.

A I understand that.

Q Has Mr. Hollander ever looked at the documents in your files from Mr. McCook and Mr. Turnbull prior to today?

A The originals of the copies that I may have in my file?

Q Any documents you may have in your file.

A I have no way of answering that question.

Q Did you make the files available to Mr. Hollander?

A No.

Q Do you know how Mr. Hollander obtained the documents that are marked with TU numbers and delivered them to us?

A Not other than what appears as a matter of record on the earlier Turnbull deposition.

Q What was that?

A I can't honestly remember. We'd have to dig through and see the innuendos that went back and forth.

Q I simply would like to know if any of the documents you have brought with you today to this deposition have been shown by you at any previous time to Mr. Hollander or any other representative of the Department of Justice.

MR. HOLLANDER: I object to this line of questioning. It is repetitious. You have had the question answered a number of times, Mr. Klitgaard. It is perfectly all right if you want to drag this out and let the witness answer it again. I don't understand the line of questioning.

THE WITNESS: The totality of the documents that I have in my possession which were previously numbered TU-100 through-- or TU-001 through TU-100 were, of course, available to and were examined by Mr. Hollander at an earlier date.

Q BY MR. KLITGAARD: When was that?

A At the Turnbull deposition.

Q Prior to the Turnbull deposition, were they made available?

A That I have no way of answering.

Q Did you obtain any separate sets of documents from

Mr. McCook, apart from the Turnbull documents?

A Well, as stated earlier, various papers flowed into this office from the offices of Mr. Turnbull and Mr. McCook, and I can't honestly say if they all came from one location or the other.

Q Did you collect those papers into a separate file?

A No. I believe Mr. Turnbull did.

Q Then Mr. Turnbull took the documents that had come in from Mr. McCook and his own documents that he had provided and those are the documents that were numbered TU-1 et seq?

A Right.

Q Do you have your files with you today containing those documents?

A I do not have all copies of all of these 001 through 100, but I can again assure you that I have nothing other than those previously numbered TU-001 through 100. I have one letter here which is dated the 25th of August and I have not been able to pin either a DDX or a TU number to that document. Unfortunately, I don't have a chronological list of those prior items. Possibly in your record there you could tell me whether or not you have in your file a letter dated August 25, 1965, over Mr. Turnbull's signature, addressed to Mr. Shaw. I'm quite sure this was a previously produced document. Yes. That is it. What is the number on that?

MR. HOLLANDER: It is TU-75.

Off the record.

(Whereupon a discussion ensued off the record.)

MR. STORKE: Is that to Mr. Shaw?

THE WITNESS: Yes. That is the one item I wasn't able -- what is the number?

MR. STORKE: TY-076.

THE WITNESS: Okay. That was the only item that I had.

Q BY MR. KLITGAARD: Now, in connection with the McCook documents, is it your testimony that Mr. Turnbull intermingled those documents with his own correspondence and other documents?

A Well, I am sure, Mr. Klitgaard, that copies that initiated from Mr. McCook's office were copied to Mr. Turnbull, and, conversely, many of the documents that initiated from Mr. Turnbull's office were copied to Mr. McCook.

Q Just so we can cover all the bases and maybe save a lot of time, let me just run down through these categories.

Again starting with our definition of documents, which we put earlier on the record, referring to Paragraph 1 of the subpoena, we called for all documents which pertain in whole or in part to storage, purchase, sale, or distribution or use of petroleum products in American Samoa. Is it your testimony you have produced all those?

A It is my testimony that Items 001 through 100 in the prior Turnbull deposition constitute all the documents, copies of the originals, that I have in my possession; correct.

Q So the record can be straight, although Mr. Turnbull has produced documents which are numbered TU-001 through TU-100, not all of those documents were marked at the Turnbull deposition. However, I assume you are saying that all the documents bearing the numbers 1 through 100, TU-1 through 100, constitute all the documents that met these descriptions here?

A There were some additional documents produced at the deposition that were assigned numbers. Did they still fall within that 100 category? In other words, is the highest number you have in your record there No. 100?

Q Yes, I believe that is correct.

A All right. Then the answer is yes.

Q So I take it, then, your testimony is that all documents meeting the description in this first category of the subpoena have been produced by you?

A Right.

Q Directing your attention to the second paragraph, which calls for all documents which pertain in whole or in part to the financing, purchase, sale, distribution or use of petroleum products in American Samoa, and I note this section refers to financing.

A Right.

Q Including but not limited to all agreements, contractual arrangements, correspondence, memoranda, or other records of negotiations or of conversations with the Bank of California or others or their representatives with respect thereto. Referring back, of course, to the financing.

A I'll testify to the fact that I have no documents which meet any of the categories referred to in Subparagraph 2 of Attachment A.

2-er-(a)8

Q Does Sullivan and Augustine in San Diego?

A No.

Q Does Mr. McCook or Mr. Turnbull, to your knowledge?

A To my knowledge, no.

Q Does anyone else, to your knowledge?

A Not to my knowledge.

Q Directing your attention to Paragraph 3 of the subpoena, this calls for all documents which pertain in whole or in part to contracts or dealings concerning the storage, purchase, sale, distribution or use of petroleum products in American Samoa with -- and now we have a series of subcategories and we will take them one at a time.

Subparagraph (a), the Government of the United States, the Government of American Samoa, or their representatives.

Again, my question is, have you produced for us all the documents in your possession or under your control or in the possession or under the control of Sullivan and Augustine or Mr. Turnbull or Mr. McCook that fit this category?

A Qualifying the answer as it relates to -- to Mr. McCook, because I believe Mr. Turnbull testified earlier that he had produced all of the various documents -- my answer would be yes, I have produced all documents, or, no, I have no other documents that have not been produced.

Q Would you state the qualification with respect to Mr. McCook?

A That I am unable to say unequivocally that Mr. McCook has produced all documents relating to the items referred to in Paragraph (a) of Attachment A.

Q To the best of your knowledge, though, he has?

A To the best of my knowledge, he has.

Q Directing your attention to Subparagraph (b), which refers to documents which pertain in whole or in part to contracts or dealings, as described in the heading of (3) with American Can Company, Starkist Foods, Van Camp Seafood Company, Japanese, Korean, or Taiwanese fishing fleets or any affiliate, subsidiary, or representative thereof.

A My answer to Subparagraph (b) is the same as my answer with respect to 3(a).

Q Subject to the same qualifications?

A Subject to the same qualifications.

Q Directing your attention now to Subparagraph (c), which again calls for documents described in the heading of Subparagraph (3) and those documents which pertain, in whole or in part, to contracts or dealings with producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products or representatives thereof.

A My answer to Subparagraph (c) would be the same, with the same qualifications as my answer to 3(a) and 3(b).

Q In other words, you produced all documents fitting that description?

A To the best of my knowledge.

Q Except for the single qualification for Mr. McCook?

A That I cannot unequivocally speak for Mr. McCook.

Q You are speaking now for yourself?

A Right.

Q And Sullivan, et cetera, the Sullivan, Augustine, firm and also Mr. Turnbull; is that correct?

A That's correct. Right.

Q To your knowledge, has Mr.McCook himself given any documents to the Department of Justice or any representative thereof concerning this?

A Not to my knowledge.

Q Apart from yourself, do you know if Mr. McCook has allowed Mr. Hollander to go through Mr.McCook's own personal files?

A I am not aware of that fact, if it has, in fact, occurred.

Q Or any other representatives?

A Or any other representatives of this or any other government.

Q Are all documents that the Sullivan, Augustine, firm has in this matter, that is, relating to the possible litigation against Standard Oil Company of California by Mr. McCook and/or Mr. Turnbull, documents that have been delivered by you to that firm?

A Other than potentially -- well, yes.

Q By documents, I'm again referring to documents which would fit the categories called for in the subpoena.

A Right.

MR. KLITGAARD: That is all I have. Thank you, Mr. Lynn.

CROSS EXAMINATION

BY MR. HOLLANDER:

Q Mr. Lynn, I just have one question.

Prior to this deposition and after you made your representation in writing to Mr. Mussman, did you make any other representations to Mr. Klitgaard concerning the documents that have been produced or the documents that remain in your files concerning these matters that are covered in the subpoena?

A The representation that was made to Mr. Klitgaard was that I was not, as I have earlier stated, completely comfortable with the unequivocal statement that everything had been produced, because there was a certain amount of mail in the Los Angeles area, in this office, and the mail between the Los Angeles and San Diego office, and until I could verify that fact I didn't feel, as I said, I could make the unequivocal representation that the previously numbered 001 to 100 constituted the totality of the documents.

Q Did you at any time, subsequent to your initial reaction, represent to Mr. Klitgaard that you were satisfied that all the documents had been produced that were in your possession?

A I'm not sure, Mr. Klitgaard, whether in our telephone conversations of the -- oh, when was it? The 9th or 10th-- whether or not that constituted that kind of a representation. I think it may have to me, but I believe to answer that question, it would have to be what the subjective understanding was by Mr. Klitgaard. But I thought I represented, yes, that the totality of the documents had been produced.

Q Did Mr. Klitgaard give you any reason why this deposition needed to be taken, after you had made that representation?

A Insofar as my deposition, Mr. Hollander, no, not actually.

MR. HOLLANDER: I have no further questions.

MR. KLITGAARD: For the sake of the record, let it show that I contacted Mr. Lynn and was told by him that he did not have -- first that he did not have all the documents in his possession, that they were spread around in Los Angeles and San Diego and elsewhere, and that he could not let me see them or did not want to let me see them until he had them all collected. We are informed that his client, Mr. McCook, has submitted files to Mr. Lynn which may be somewhat lengthy and which may contain documents relating to the American Samoan litigation or to petroleum supply or distribution in Samoa. Since Mr. Lynn was not definite in our conversation in the early part of March as to what documents he did or did not have, and in the interest of preserving for the court a record of all documents that have been produced and verifying under oath they were produced, we thought it would be courteous to Mr. Lynn and efficient, as well, to proceed with this deposition and confirm that all the documents had been produced.

That is all I have.

MR. HOLLANDER: I have no further questions.

Thank you, Mr. Lynn.

MR. KLITGAARD: Stipulate to sign before any Notary?

MR. HOLLANDER: I believe that is part of the stipulation.

WITNESS.

STATE OF CALIFORNIA,)
) ss.
County of ~~Los Angeles~~ Orange)

I, Irene V. Bennett, a Notary Public in and for the County of ~~Los Angeles~~ Orange, State of California, do hereby certify:

That on the 22nd day of June, 1971, before me personally appeared RICHARD B. LYNN, the witness whose deposition appears hereinbefore.

That the said witness was by me duly advised of the right to make such changes and corrections in the within transcript as might be necessary in order to render the same true and correct.

That the said witness stated to me that the said deposition had been read to or by him, and he, having made such changes and corrections as he desired, thereupon subscribed and swore to said deposition in my presence.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal of office this 22nd day of June, 1971.

H Irene V Bennett
Notary Public in and for the County of
~~Los Angeles~~, State of California.
Orange

STATE OF CALIFORNIA,)
) ss.
County of Los Angeles)

I, Vickie Crawford, C.S.R., a Notary Public within and for the County of Los Angeles and State of California, do hereby certify:

That prior to being examined, RICHARD B. LYNN, the witness named in the foregoing deposition, was by me duly sworn to testify the truth, the whole truth and nothing but the truth;

That said deposition was taken before me pursuant to annexed stipulation, at the time and place therein set forth, and was taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision; that the said deposition is a true record of the testimony given by the witness;

That it was stipulated by counsel that said deposition may be read, corrected and signed by the witness before any notary public in and for the County of Los Angeles, State of California.

I further certify that I am neither counsel for nor related to any party to said action, nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal, this 17 day of April, 1971.

Vickie Crawford
Notary Public in and for the County of
Los Angeles, State of California.

VICKIE CRAWFORD

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
vs.
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

Civil Action File
No. 52334-SC

Deposition of WILLIAM ROBERT McCOOK, taken on behalf of the defendant, at 550 Newport Center Drive, Newport Beach, California, commencing at 10:15 a.m., on the 23rd day of March, 1971 before Vickie Crawford, a Notary Public in and for the County of Los Angeles, State of California, pursuant to the annexed stipulation.

APPEARANCES OF COUNSEL:

For the Plaintiff:	U. S. DEPARTMENT OF JUSTICE, ANTITRUST DIVISION, By: BERNARD M. HOLLANDER, Esq. and DONALD MULLENS, Esq., Washington , D.C. 20530
For the Defendant:	PILLSBURY, MADISON & SUTRO, By: THOMAS J. KLITGAARD, Esq. and CHARLES A. STORKE III, Esq., 225 Bush Street, San Francisco, California 94104
For the Witness:	RICHARD B. LYNN, Esq., 550 Newport Center Drive, Newport Beach, California.

It is stipulated by and between counsel for the parties that any depositions taken in preparation for the trial of the case are taken pursuant to Rule 26 and all objections are reserved to the time of trial.

It is further stipulated that both sides waive the requirement that the witness sign his deposition before the same notary public who takes the deposition, but instead he may sign it before any notary public.

It is further stipulated that if any of the depositions are not filed with the reporter and the Clerk of the Court 30 days before trial, a certified copy of the deposition may be substituted by counsel for the original.

It is further stipulated that wherever it is necessary to use copies or reproductions of the original documents that had been produced insofar as they were originals, there will be no objection from either side to the use of the copies. Where the copy is not completely legible an effort will be made to substitute either a legible copy or the document.

WILLIAM ROBERT McCOOK,

called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

MR. KLITGAARD: Do you wish to show Mr. Lynn's appearance for the witness? I take it you are appearing today for the witness, Mr. Lynn?

MR. LYNN: Yes.

DIRECT EXAMINATION

BY MR. KLITGAARD:

Q Will you state your full name, please.

A William Robert McCook.

Q And what is your present business address, sir?

A 14400 East Firestone Boulevard, La Mirada.

Q Your current residence address?

A 2579 Pequeno Circle, Palm Springs.

Q Now, you have been served with a subpoena and given a subpoena which lists categories and various categories of documents with respect to American Samoa and I think you have it right there in your hand.

A Yes.

Q Do you want to take a look at the attachment on the subpoena, Mr. McCook, and we'll go through it and ask you what documents you may have that relate to the subpoena. First of all, let me ask you this: In connection with your petroleum facility venture, did you keep a file which contained correspondence concerning that?

A Yes.

Q And do you currently have that file in your possession?

A No.

Q Did you deliver the file to someone?

A Yes.

Q To whom?

A Mr. Lynn.

Q About how long ago did you do that?

A Several months ago.

Q Now, do you have any documents at all that you have delivered to Mr. Lyle Jones or Mr. Sullivan or any member of the Sullivan, Augustine firm in San Diego concerning Samoa?

A I delivered none to them.

Q I believe you have retained Mr. Lynn, have you not, to represent you in connection with possible litigation against Standard Oil Company of California?

A Yes.

Q With respect to petroleum supplies in American Samoa?

A Yes.

Q And is it a fair statement to say that you are withholding action on that matter pending decision of the government suit which is now pending against Standard Oil of California?

A Yes, that is fair.

MR. LYNN: I think that probably is a decision that would be made by counsel upon counsel's recommendation, Mr. McCook, to make a determination in that point, which has not been reached.

MR. KLITGAARD: Thank you.

Q Now, directing your attention to the attachment to the subpoena, Mr. McCook, you will see that the subpoena asks you to bring to the deposition certain described documents, and at the bottom you will see that the documents as defined to mean all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, whether or not prepared over his or their signatures. In other words, any documents prepared by anybody that fit the description. Do you have that definition in mind?

A Yes.

Q Now, directing your attention to Paragraph 1 of this attachment, do you see there that the subpoena calls for all documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa? Now, have you delivered all documents which are in that category and which at any time were in your possession to Mr. Lynn?

A Yes.

Q And you have retained none of those documents that fit the description at this time?

A To my knowledge, I have given him my file, unless there might be a few miscellaneous things that may be filed elsewhere.

Q Have you taken a look in the files to see if there are documents?

A No.

Q Where are those files?

A It would be miscellaneous correspondence files. They would be in my office.

MR. LYNN: I think it is fair to state that I made more than a cursory examination of Mr. McCook's files recently, that is, within the last 10 days, and I could find nothing in addition to that which had already been delivered here.

MR. KLITGAARD: You are referring to the files at his office?

MR. LYNN: I am referring to the single four-drawer file which is in his office and which contains myriad of subfiles and I went through each one individually.

MR. HOLLANDER: Off the record.

(Whereupon a discussion ensued off the record.)

MR. HOLLANDER: Back on the record.

Q BY MR. KLITGAARD: The next category, Mr. McCook, are all documents which pertain in whole or in part to the financing -- you will note we are talking about financing -- of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including, but not limited to, all agreements, contractual arrangements, correspondence, memoranda or other records or negotiations or of conversations with the Bank of California, or others, or their representatives, with respect thereto.

Now, do you have any documents in your possession at the present time that fit this category?

A No.

Q And have you delivered all files or other folders

that would contain this type of document to Mr. McCook for his review?

A Mr. Lynn?

Q Mr. Lynn.

A Yes.

Q Directing your attention now to Paragraph 3, we refer here to all documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution or use of petroleum products in American Samoa with -- and now we have a series of subcategories: Subparagraph (a) is the government of the United States, the government of American Samoa, or their representatives, which would include the Justice Department and people like that.

Now, have you any documents in your possession at the present time which fit this category?

A No.

Q And again, I'll ask you if you delivered all documents that would fit that category to Mr. Lynn?

A Yes.

Q Directing your attention now to Subparagraph (b), we see documents which pertain in whole or in part to contacts or dealings, as outlined in the heading, with American Can Company, Starkist Foods, Van Camp Seafood Company, Japanese, Korean or Taiwanese fishing fleets or any affiliate, subsidiary or representative thereof.

Have you any documents that would fit that category currently in your possession?

A No.

MR. LYNN: There is a page missing. I'm sorry.

THE WITNESS: No. I have it.

MR. LYNN: Okay.

THE WITNESS: You have a page missing here.

Q BY MR. KLITGAARD: Again, have you delivered all documents which fit that category to Mr. Lynn?

A Yes.

Q And again, I assume with respect to the categories here that Mr. Lynn has made the same general type of search that he described before of your files at your office.

Is that correct, Mr. Lynn?

MR. LYNN: Yes, that is a fair statement.

Q BY MR. KLITGAARD: Directing your attention now to the third subparagraph, which is Subparagraph (c), that refers to documents which pertain in whole or in part to contacts or dealings as outlined in the heading in this Paragraph 3, with producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

Do you have any documents that fit this category in your possession?

A No.

Q Again, have you delivered all documents that would fit that category to Mr. Lynn?

A Yes.

MR. KLITGAARD: Again, Mr. Lynn, your comment about the search of the files would cover this subcategory as well?

MR. LYNN: Yes.

Q In your August 13th letter, DDX 133, the last page, you make the statement: "If the foregoing proposal is acceptable in principal, it is requested that a meeting be held" referring to Governor Lee -- "while you are still in the United States, for the purpose of discussing and finalizing arrangements and possibly executing a letter agreement between all interested parties."

Do you see that?

A Yes.

Q Did you contact Governor Lee after sending this letter or were you contacted by him?

A No.

Q Did you have any communications of any kind at all with Governor Lee after you sent this letter?

A No, I never did.

Q Or with anyone else with the government of American Samoa?

A Not to my knowledge. I think I missed him. He came out here to visit and I was up in Montana at the time -- or on his way back to Samoa.

Q It is your testimony you never did have any meeting of any kind with him?

A Yes.

MR. HOLLANDER: May I say something to clarify the record? It is my recollection, Mr. Klitgaard, and I want to check this, Mr. Turnbull told me there was such a proposal by Mr. McCook and that he had it sent to me, so I'm not sure, you know, what the numbering is, whether this whole thing came or whether just the two-page letter, and I can check that for you.

MR. STORKE: Who sent it to you?

MR. HOLLANDER: I think, if I am not mistaken, Mr. Turnbull called Mr. McCook and produced this. He told me when I looked at his files there was such a document, and I don't believe he had a copy of it. I am sorry to interrupt, but I think you better know that.

3/23/71

Mailed a copy of "Content" to
Lyle L. Jones, Esq.
2055 Third St, San Diego 92110

DDX-168

~~PLAINTIFF~~ EXHIB.
NO. 423 FOR IDENT.
MARK [illegible], C.S.R. #3019

SDY

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SULLIVAN, MARINOS, AUGUSTINE & DELAFIELD
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ROBERT A. PRAHL
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GARY M. CATLOR

LYLE L. JONES, OF COUNSEL

SAN FRANCISCO
CROCKER PLAZA SUITE 2100
SAN FRANCISCO, CA. 94104
(415) 397-7667

March 26, 1971

Richard B. Lynn, Esq.
550 Newport Center Drive, Suite 835
Newport Beach, California

Dear Dick:

Thank you for sending me the requested documents. I think that I should go over Mr. McCook's deposition and would appreciate it if you or he would mail it to me for examination prior to his signing it and returning it to the reporter. Bernie Hollander tells me that the reporter promised to have the deposition ready by the end of this coming week.

Sincerely yours,

Lyle

Lyle L. Jones

LLJ:js

April 3, 1971

Standard Oil Company of
California - United States
v. (American Samoa)

Richard B. Lynn, Esq.
550 Newport Center Drive
Suite 835
Newport Beach, California

Dear Mr. Lynn:

On Monday, March 29, 1971, defendant Standard Oil Company of California took the deposition of J. T. Shaw, Mr. Shaw's name appears in the documents which you have made available from the files of Raymond C. Turnbull and William R. McCook.

As you will recall, at your deposition you testified that all documents in those files responsive to the subpoena had been produced for plaintiff and defendant in the above-noted action, and had been numbered TU-001 through TU-100. In the course of the Shaw deposition, however, Mr. Shaw produced from his files additional correspondence which was not included among the documents which you and your clients have made available to us. Specifically, Mr. Shaw produced the following additional documents:

(a) Letter dated November 30, 1964, with enclosures, from Chicago Bridge & Iron Company to Pacific Coconut Processing Corporation, attention: Mr. Ray Turnbull (marked DDX-270A through DDX-270I);

(b) Letter dated August 4, 1965, with enclosure, from J. T. Shaw to Mr. William McCook, cc: Mr. R. C. Turnbull (marked DDX-271A and DDX-271B); and

[RETYPED]

(c) Letter dated August 27, 1965, from J. T. Shaw to Mr. Raymond C. Turnbull (marked DDX-272).

For your convenience, I am enclosing photocopies of these documents with this letter.

As you will see from the enclosures, these documents are material to the pending litigation and are directly responsive to the subpoenas duces tecum which were served upon you and your clients. In the circumstances, we would appreciate your making a further search of your files, and those of Messrs. Turnbull and McCook, to determine whether you or your clients have any further documents responsive to the paragraphs of the subpoenas, which have not already been produced.

As you will recall, we have continued the deposition of Mr. McCook, and we would therefore appreciate your prompt advice on whether there are any such additional documents responsive to the subpoenas.

Yours very truly,

Thomas J. Klitgaard

Enc.
cc: Bernard M. Hollander, Esq.

April 12, 1971

Standard Oil Company of
California - United States
v. (American Samoa)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard B. Lynn, Esq.
550 Newport Center Drive
Suite 835
Newport Beach, California

Dear Mr. Lynn:

On April 3, 1971, we wrote to you with respect to additional documents in the possession of Messrs. Turnbull or McCook or in your own files, responsive to the subpoenas duces tecum previously served in the above-noted litigation.

If it will assist you in your search, TU-090 through TU-092 are copies of some of the attachments to the letter dated November 30, 1964, from Chicago Bridge & Iron Company to Pacific Coconut Processing Company, attention: Mr. Ray Turnbull (marked DDX-270A through DDX-270I at the Shaw deposition). Also, TU-100 is a copy of the attachment to the letter dated August 4, 1965, with enclosure, from J. T. Shaw to Mr. William McCook, cc: Mr. R. C. Turnbull (marked DDX-271A and DDX-271B at the Shaw deposition).

Since you have supplied us only parts of these documents (namely TU-090 thrugh TU-092 and TU-100), it is requested that you search for these documents in your files. If I do not hear from you by April 14, I will assume that you prefer to proceed by deposition and subpoena and will take the appropriate action to institute these proceedings.

Please advise.

Yours very truly,

Thomas J. Klitgaard

cc: Bernard M. Hollander, Esq.

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FILED
APR 15 1971
CLERK, U. S. DIST. COURT
SAN FRANCISCO

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE
225 Bush Street
San Francisco, California 94104
Telephone: 421-6133

Attorneys for Defendant
Standard Oil Company of California

United States District Court for the
Northern District of California

UNITED STATES OF AMERICA, Plaintiff, vs. STANDARD OIL COMPANY OF CALIFORNIA, Defendant.	No. 52334-SC Civil

NOTICE OF TAKING DEPOSITIONS

To plaintiff and its attorneys of record:

PLEASE TAKE NOTICE that on Monday, April 19, 1971, at the times indicated below, at the law offices of Messrs. Lawler, Felix & Hall, 605 West Olympic Boulevard, Los Angeles, California 90015, the undersigned will take the depositions upon oral examination of each of the following:

Richard B. Lynn at the hour of 9 A.M.

Raymond C. Turnbull at the hour of 11 A.M.

Please take further notice that a Subpoena Duces Tecum will be served upon Mr. Lynn which will require him to bring to his deposition all documents described in Attachment

"A" hereto and that a Subpoena Duces Tecum will be served upon Mr. Turnbull which will require him to bring to his deposition all documents described in Attachment "B" hereto.

The depositions will be conducted pursuant to the provisions of the Federal Rules of Civil Procedure before a Notary Public or some other person duly authorized to administer oaths and take depositions, and will continue from day to day until completed, unless otherwise adjourned.

Dated: April 14, 1971.

PILLSBURY, MADISON & SUTRO
WILLIAM E. MUSSMAN
THOMAS J. KLITGAARD
CHARLES A. STORKE

By CHARLES A. STORKE

Attorneys for Defendant
Standard Oil Company
of California

ATTACHMENT "A"

All the following described documents* (other than the documents previously marked TU-001 - TU-100 and DDX-155):

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, including (but not limited to) all documents delivered to the deponent or any of the above persons by, or obtained by the deponent or any of the above persons from William R. McCook, Raymond C. Turnbull, or their respective partners, associates, employees, agents, attorneys or representatives, whether or not prepared over the signature of the deponent or any of the above persons.

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

ATTACHMENT "B"

All the following described documents* (other than the documents previously marked TU-001 - TU-100 and DDX-155):

(1) All documents which pertain in whole or in part to the storage, purchase, sale, distribution, or use of petroleum products in American Samoa;

(2) All documents which pertain in whole or in part to the financing of the storage, purchase, sale, distribution, or use of petroleum products in American Samoa, including (but not limited to) all agreements, contractual arrangements, correspondence, memoranda or other records of negotiations or of conversations with The Bank of California, or others, or their representatives, with respect thereto;

(3) All documents which pertain in whole or in part to contacts or dealings concerning the storage, purchase, sale, distribution, or use of petroleum products in American Samoa with:

(a) The Government of the United States, the Government of American Samoa, or their representatives;

(b) American Can Company, Star-Kist Foods, Inc., Van Camp Sea Food Company, Japanese, Korean or Taiwanese fishing fleets, or any affiliate, subsidiary, or representative thereof;

---

* "Documents" means all written or graphic material, wherever located, in the possession or under the control of the deponent, or of his partners, associates, employees, agents, attorneys or representatives, whether or not prepared over his or their signatures.

(c) Producers, refiners, suppliers, jobbers, wholesalers, retailers, or transporters of petroleum products, or representatives thereof.

(End)

WU TELTEX WSH
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PM&S SFO

TELTEX SFO PAID 15 4/15/71

BERNARD M. HOLLANDER, ESQ
ATTORNEY, U. S. DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
WASHINGTON, D.C. 20530

PERSONAL

RE: UNITED STATES V. STANDARD OIL CO. OF CALIFORNIA
(AMERICAN SAMOA)

PLEASE TAKE NOTICE THAT ON MONDAY, APRIL 19, 1971, DEFENDANT, STANDARD OIL COMPANY OF CALIFORNIA WILL TAKE THE DEPOSITIONS OF MESSRS. LYNNE AND TURNBULL AT 9 A.M. AND 11 A. M., RESPECTIVELY AT LAW OFFICES OF MESSRS. LAWLER, FELIX & HALL, 605 WEST OLYMPIC BOULEVARD, LOS ANGELES, CALIFORNIA. FORMAL NOTICE TO FOLLOW BY AIR MAIL, SPECIAL DELIVERY.

CHARLES A. STORKE
PILLSBURY, MADISON & SUTRO
ATTORNEYS FOR DEFENDANT

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(1829)

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DEPARTMENT OF JUSTICE
ADMINIS... SERVICES ...OFFICE

BERNARD M. HOLLANJER, ESQ

ATORNEY, 7. S. DEPARTMENT OF JUSTICE

ANTIRUST DIVISION

WASHINGTON D.C. 20530

PERSNAL

REC UNITED STATES VM STANJARD OIL CO. OF CALIFORNIA

4/15/71
Lynne
Kelgaard
[illegible]
[illegible]
Turnbull

(AMERICAN AMOA)

PLEASE TAKE NTICE THAT ON MONDAY, APRIL 19,1971, DEFENDANT, STANDARD OIL COMPANY OF CALIFORNIA WILL TAKE THE DEPOSITIONS OF MESSRS. LYNNE AND TURNBULL AT 9 A. M. AND 11 A. M. , RESPECTIVELY AT LAW FFICES F MESSRS. LAWLER, FELIX & HALL, 605 WESTLYMPIC BOULEVARD, LOS ANGELES, CALIFORNIA. FNAL NOTICA TO FOLLOW BY AIR MAIL, 03:E-) DELIVERY.

CHARLES A. STORKE
PILLSBURY, MADISON & SUTRO
ATTORNECS FOR DEFANDANT

60-57-193
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BERNARD M. HOLLANDER, ESQ
ATTORNEY, U.S. DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
WASHINGTON D.C. 20530

PERSONAL

RE: U.S. V. STANDARD OIL COMPANY OF CALIFORNIA A(AMERICAN SAMOA) LYNN ADVISES AFTER FURTHER CONFERENCE WITH MESSRS. MC COOK AND TURNBULL THEY HAVE NO FURTHER DOCUMENTS RESPONSIVE TO OUR SUBPOENAS. LYNN ALSO ADVISES THAT TURNBULL TURNED OVER HIS ENTIRE FILE TO YOU FROM WHICH YOU EXTRACTED DOCUMENTS NUMBERED TU-001-TU-100. DO YOU HAVE MISSING DOCUMENTS IN YOUR POSSESSION? PLEASE ADVISE AT ONCE.

THOMAS J. KLITGAARD

WU TELTEX WSH
(1658)

PM&S SFO
O

WU TELTEX WSH
A144(1801)

PM&S SFO

PM&S SFO

TELEX SFO PAID 15 4/16/71

BERNARD M. HOLLANDER, ESQ
ATTORNEY, U.S. DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
WASHINGTON D. C. 20530

PERSONAL

RE: U. S. V. STANDARD OIL COMPANY OF CALIFORNIA (AMERICAN SAMOA)

DEPOSITIONS OF LYNN AND TURNBULL CANCELLED. ASSUME YOU WILL PROVIDE ALL OTHER MISSING DOCUMENTS.

THOMAS J. KLITGAARD

WU TELTEX WSH
(1802)

PM&S SFO
O

DJA006 204A EST APR 17 71 SPOD018B WU TELTEX WSHA123(1656) File Brief

PM&S SFO

PM&S SFO

71A 6389 # 174

APR 17 [illegible]

TELEX SFO PAID 15   4/16/71

BERNARD M. HOLLANDER, ESQ
ATTORNEY, U.S. DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
WASHINGTON D.C.   20530

PERSONAL

RE: /7.S. V. STANDARD OIL COMPANY OF CALIFORNIA A(AMERICAN SAMOA)

60-57-193
AUG 2 1973

LYNN ADVISES AFTER FURTHER CONFERENCE WITH MASSRS. MC COOK AND TURNBULL THEY HAVE NO FURTHER DOCUMENTS RESPONSIVE TO OUR SUBPOENAS. LYNN ALSO ADVISES THAT TURNBULL TURNED OVER HIS ENTIRE FILE TO YOU FROM WHICH YOU EXTRACTED DOCUMENTS NUMBERED TU-001-TU-100. DO YOU HAVE MISSING DOCUMENTS IN YOUR POSSESSION? PLEASE ADVISE AT ONCE.

THOMAS J. KLITGAARD

4-19-71

Notified Mr. [illegible] that we have provided Standard with all documents we received (TU 1-100)

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
STANDARD OIL BUILDING
225 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 421-0133
AREA CODE 415

April 19, 1971

USA vs. Standard Oil Company of California (American Samoa)

RWMcL:CDM:BMH
60-57-193

Bernard M. Hollander, Esq.
Attorney, U.S. Department of Justice
Antitrust Division
Washington, D.C. 20530

Dear Mr. Hollander:

As I promised, I am writing you in explanation of the events which led up to our noticing the depositions of Messrs. Lynn and Turnbull and the telegrams which were sent to you in connection therewith.

As you may recall, I have always had the uneasy feeling that we have not seen all of Mr. Turnbull's documents. Thus, on page 218 of Mr. Turnbull's deposition, I stated:

> "I have an uneasy feeling that I haven't seen all of your documents. And either through agreement with your counsel or by subpoena, I want to review your files, and then I will continue this deposition, only for the purpose of asking questions that might come up as the result of additional documents that I haven't seen yet. And I am saying this not because you haven't produced something that I wanted, it's just that all we have seen have been documents that Mr. Hollander copied from your files. So there may be additional ones that he didn't think were important or of any interest to him that might be of interest to me."

You recall that you voiced strenuous objection on the record to my request even though, as I pointed out, Mr. Turnbull was not your client and you lacked any standing to voice an objection.

I agreed that if Mr. Lynn would undertake to review all of Mr. Turnbull's files and produce everything for us that we had not seen which related in any way to the supply of petroleum products in American Samoa, we would not proceed by subpoena.

[RETYPED]

We pursued this agreement with Mr. Lynn but were unable to obtain his assurance. Accordingly, we again noticed Mr. Turnbull's deposition and served a subpoena duces tecum. This had the result of obtaining from Mr. Lynn the assurance set out in his letter to me (copy to you) of January 13, 1971. That letter assured us that there was nothing in the Turnbull files relevant to this case other than the documents numbered "TU-001 through TU-100." Because of the fact that two documents were produced by Mr. Lynn in the course of Mr. Turnbull's deposition which had not been previously produced and had not been given "TU" numbers, I assumed that Mr. Lynn must have regarded these two documents as unrelated to the supply of petroleum products in American Samoa. The one which I marked "DDX-155" is, in my mind, directly relevant and I therefore became somewhat reluctant to rely on Mr. Lynn's determination of what we were looking for.

After considerable effort, we ultimately found Mr. William R. McCook whose name appeared on the record as one who negotiated with Governor Lee in connection with the petroleum business in American Samoa. As you know, we subpoenaed Mr. McCook for his testimony and documents and found that he, too, was represented by Mr. Lynn. You will also recall that at his deposition McCook testified that he had no documents, that they had all been turned over to Turnbull either directly or through Mr. Lynn. At that time, Mr. Lynn's deposition was taken. While we do not yet have the transcript, we believe he testified that he had never seen any responsive documents other than those marked "TU-001 through TU-100" and that he was unable to tell which of the documents so marked were from Turnbull's files and which were from McCook's files. Again we found ourselves with the same limited number of documents which we had received from the Government many months earlier. The concurrence of these events did not dissipate, but rather reinforced, that uneasy feeling that there must be additional documents that existed and had not been produced - perhaps because of someone's determination that they were not called for or were not relevant.

When we were finally able to take the deposition of Mr. Shaw and to see his files, we became even more convinced that, for one reason or another, we had not seen everything from the Turnbull-McCook files. Most persuasive to us was the fact that very significant portions of documents which we found intact in Shaw's files were not produced from the Turnbull-McCook files, while the relatively insignificant portions thereof were produced. For example, refer to Turnbull's letter to Shaw of January 15, 1965 which was marked as "DDX-119" and produced from Turnbull's files as "TU-67-68." No one of the enclosures referred to was attached to this letter in the Turnbull files as produced. In Mr. Shaw's files, however, we find the letter

(marked DDX-119A) and all of the attachments (marked DDX-269 and DDX-270A through DDX-270 I). The drawing enclosed with DDX-119A appears as "TU-088" in the Turnbull documents and is followed by DDX-269 (TU-089) and DDX-270E, 270F and 270D (TU-90, 91 and 92). Of critical significance, of course, is the fact that Turnbull's files do not include DDX-270A, B and C which covered, inter alia, DDX-270D, E and F. That, in turn, was an enclosure to Turnbull's letter to Shaw of January 15, 1965 (DDX-119A). In other words, we do have produced from Turnbull's files, as isolated documents, those enclosures to the Shaw letter of January 15, 1965 which are meaningless alone but which become significant when the documents to which they were originally attached and which were not produced are in hand. In some unexplained way, these enclosures were either scattered in Mr. Turnbull's files or not produced. These facts, we believed, justified a request for one more thorough search of the Turnbull-McCook files.

The facts with relation to DDX-119 are not isolated. Mr. Shaw produced. and we marked as DDX-271A, the basic quotation to Mr. McCook upon which the latter apparently framed his quotation to Governor Lee. Enclosed was a single page from Platt's Oilgram for August 3, 1965 (p. 6a, Vol. 43, No. 148) which substantiated the price quoted by Shaw. A copy of DDX-271A, it shows, was also sent to Mr. Turnbull. Despite the underlying significance of this document neither Mr. Turnbull nor Mr. McCook came up with the letter although they did produce a copy of the enclosure which Mr. Shaw sent with his letter, a document which was marked "TU-100." Again, with the presence of part of a document which is meaningless alone but which becomes critically relevant when attached to that portion which is missing, we say that a request for a further search is indicated and is reasonable.

Finally, one of the documents produced by Turnbull was a letter to Shaw in which he asked a number of very pertinent questions, a document which was marked as DDX-169. No reply was produced. In response to our subpoena to Mr. Shaw, however, the reply was forthcoming and has been marked as DDX-272. I am sure you will agree that this document is not only pertinent but of vital significance on just what Mr. Shaw was proposing and his view of the Samoan market.

While some of the above omissions were perceivable on the face of the documents produced from Turnbull-McCook, most of them were not, and we would not have become possessed of the important facts had we not persisted in our efforts to subpoena everyone who was connected in any way with the Turnbull transactions. I am sure you will recall telling me, for example, that you had made oral inquiry of Mr. Shaw or his attorney and were told that they had no documents which related to the American Samoa venture in any way. I am, of course, relieved that we went the last mile and I am sure that you are as gratified as we that our subpoenaes did turn up writings which help fill some obvious holes in the record.

The above, I trust, will satisfy you as to why we concluded that it would be appropriate to require a final, full search of the Turnbull-McCook-Lynn records. We issued the subpoenaes because we were unable to obtain a response from Mr. Lynn to our telephone calls or our letters (copies of which were sent to you), and the date of April 19 (closing of discovery) was upon us. This necessitated our giving you telegraphic notice of what we were being forced to do. After you telephoned Mr. Lynn to advise him of our telegraphic notice he called our office and asked if we could accept a further statement in satisfaction of our subpoena. He stated that at the time of the Government's initial request all of the documents out of the Turnbull-McCook files were delivered to the Government, and that neither he nor his clients had any record of what was given. He did say that the documents numbered "TU-001 - TU-100" were marked by the Government and returned. Mr. Lynn said that neither he nor his clients knew whether any of the documents they had produced for or delivered to the Government were deemed irrelevant by the Government and not numbered. Our telegraphic request was to find out if there were to your knowledge any documents produced from the Turnbull-McCook files for your inspection which you did not copy and produce for us because you believed that they were irrelevant or immaterial to the issues in the case. Because Mr. Lynn told Mr. Klitgaard that he was going to advise you immediately of their conversation, Mr. Klitgaard thought that there would be no chance of your misinterpreting his telegrams. There was no intent to suggest that the Government might be withholding documents; the inquiry was designed to find out if you would stipulate to a production of documents (if any) which you saw or received from Turnbull-McCook and which you did not include in the set numbered "TU-001 - TU-100."

I believe this inquiry was appropriate in light of our expierience with Mr. Eardley's documents. You will recall that Mr. Eardley produced for the Government a number of documents which included his rate study for electric power in Samoa prepared in 1968. The cost of electric power, according to the complaint, would seem to be a relevant issue in this case. Nevertheless, in forwarding to us the documents which you marked "E-1 - E-29," you did not include Mr. Eardley's rate study apparently because you questioned its relevance. (We have since obtained the study from Mr. Eardley on subpoena and have marked it as DDX-216 to the Eardley deposition.) We thought it conceivable that the same circumstances might obtain in the case of the Turnbull-McCook documents.

From our telephone conversation this morning, I understand that you did not receive or review any documents from the files of Mr. Turnbull or Mr. McCook which are not included in the set of documents which you have marked as "TU-001 - TU-100." Your confirmation of this fact is certainly all that we need to cover the one unexplored avenue suggested by Mr. Lynn.

Whether we will proceed to interrogate further Messrs. Lynn and Turnbull upon Mr. Lynn's return to his office is still undecided. We understand from Mr. Lynn that you were agreeable to postponing the conclusion of these depositions beyond April 19 to accommodate Mr. Lynn's schedule.

Sincerely yours,

W. E. Mussman

cc: Richard B. Lynn, Esq.

PM&S SFO
TLX004 (43)LA052
L SAA058 PS NL PDF TDSA NEWPORT BEACH CALIF 23
WILLIAM MUSSMAN ESQ 421-6133
PILLSBURY MADISON AND SUTRO 225 BUSH ST SFRAN
REF MARKETING PETROLEUM AMERICAN SAMOA.

PLEASE BE ADVISED MESSRS. TURNBULL AND MCCOOK FILES EXAMINED WEEK ENDING APRIL 17, 1971. YOU HAVE MY ASSURANCE THAT THERE ARE NO FURTHER DOCUMENTS. THIS ASSURANCE IS UNEQUIVOCAL AND IS IN NO MANER DEPENDENT UPON MY INDEPENDENT JUDGEMENT RESPECTING RELEVANCE

RICHARD B. LYNN ESQUIRE.
(828 AM APR 24 71)
PM&S SFO

SPEED LETTER

TO Mr. Bernard Hollander
Department of Justice
Washington, D.C.

FROM Richard B. Lynn, Esq
550 Newport Center Dr., Ste 835
Newport Beach, California 92660

SUBJECT Western Union telegram to Mr. Mussman, at Pillsbury, Madison, & Sutro

MESSAGE DATE April 23, 1971

Dear Mr. Hollander:

The enclosed is a typed copy of the telegram sent to Mr. Mussman, 4/23/71.

SIGNED Diane McIntyre
Secretary

REPLY DATE 19

60-57-193

SIGNED

RETAIN WHITE COPY, RETURN PINK COPY

RICHARD B. LYNN
ATTORNEY AT LAW
550 NEWPORT CENTER DRIVE, SUITE 835
NEWPORT BEACH, CALIFORNIA 92660
(714) 644-8880

April 23, 1971
3:30 P.M.

Mr. William Mussman, Esq.
PILLSBURY, MADISON & SUTRO
225 Bush Street
San Francisco, California 94104
415 421-6133

REFERENCE: MARKETING, PETROLEUM, AMERICAN SAMOA.

Please be advised Messrs. Turnbull and McCook files examined week ending 4/17/71. You have my assurance there are no further documents. This assurance is unequivocal and is in no manner dependent upon my independent judgment respecting relevance.

Richard B. Lynn, Esq.

60-57-193
30 APR 26 1971
ANTI-TRUS

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

WBC:CDM:BMH
60-57-193

April 23, 1971

AIR MAIL

William E. Mussman, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: United States v. Standard Oil Company of California, Civil Action No. 52334-SC, N.D. California.

Dear Mr. Mussman:

This is in response to one aspect of the matters discussed in your letter of April 19, 1971; namely, your suggestion that further depositions of Messrs. Lynn and Turnbull might still be held with our concurrence even though the April 19 cutoff date for discovery has passed. It is true that Mr. Lynn was told on Friday, April 16, 1971, when we first received your telegraphic notice of depositions in Los Angeles the following Monday, that the Government was amenable to postponing the depositions, if they were necessary, until the end of the week of April 19th, or the beginning of the week of April 26, 1971. However, since it is our understanding that Mr. Lynn has again searched the relevant files and found no additional responsive documents, there seems to us to be no reason for further depositions of either Messrs. Lynn or Turnbull. Unless there is some justification for taking yet a third deposition on the same subject matter, we hope that by now you have decided not to further interrogate Messrs. Lynn and/or Turnbull. If this is not your decision, we should like to be advised promptly.

Sincerely yours,

WALKER B. COMEGYS
Acting Assistant Attorney General
Antitrust Division

Bernard M Hollander
By: Bernard M. Hollander
Attorney, Department of Justice

cc: Richard B. Lynn, Esquire

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
STANDARD OIL BUILDING
225 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 421-6133
AREA CODE 415

April 26, 1971

USA vs. Standard Oil Company of California (American Samoa)

RWMcL:CDM:BMH
60-57-193

Bernard M. Hollander, Esq.
Attorney, Department of Justice
Antitrust Division
Washington, D.C. 20530

Dear Mr. Hollander:

This is in further reference to my letter of April 19, 1971, and your response of April 23. I have today received from Mr. Lynn the following telegram:

> REF MARKETING PETROLEUM AMERICAN SAMOA.
> PLEASE BE ADVISED MESSRS. TURNBULL AND MCCOOK FILES EXAMINED WEEK ENDING APRIL 17, 1971. YOU HAVE MY ASSURANCE THAT THERE ARE NO FURTHER DOCUMENTS. THIS ASSURANCE IS UNEQUIVOCAL AND IS IN NO MANNER DEPENDENT UPON MY INDEPENDENT JUDGMENT RESPECTING RELEVANCE.

Upon your confirmation of the understanding which I described in the penultimate paragraph of my letter to you of April 19, 1971, I will be content to rely on the record without any further testimony from Messrs. Lynn, Turnbull and/or McCook. May I hear from you promptly.

Sincerely yours,

W. E. Nussman

cc: Richard B. Lynn, Esq.

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
RWMcL:CDM:BMH
60-57-193

May 3, 1971

AIR MAIL

William E. Mussman, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: United States v. Standard Oil Company of California,
Civil Action No. 52334-SC, N.D. California.

Dear Mr. Mussman:

This is in response to your letter of April 26, 1971, in which you quote a telegram from Richard B. Lynn, Esquire, containing his unequivocal assurance, based upon an examination of the Turnbull and McCook files during the week of April 17, 1971, "that there are no further documents". We have no reason to question Mr. Lynn's veracity and would have assumed that the repeated assurances to you, both on the record and off, would by now have put an end to your anxiety. In any event, there does not now appear to us to be any sound basis for pursuing the matter further.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

Bernard M. Hollander
By: Bernard M. Hollander
Attorney, Department of Justice

cc: Richard B. Lynn, Esq.

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
STANDARD OIL BUILDING
225 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104
TELEPHONE 421-0122
AREA CODE 415

May 5, 1971

USA vs. Standard Oil Company
of California (American Samoa)

RWMcL:CDM:BMH
60-57-193

Bernard M. Hollander, Esq.
Attorney, Department of Justice
Antitrust Division
Washington, D.C. 20530

Dear Mr. Hollander:

I now have your letter of May 3, 1971. You still have not confirmed the understanding which I expressed in the penultimate paragraph of my letter to you of April 19, 1971, and which I again requested in my letter of April 26, 1971. As I explained, this is the last step in completing the record.

Sincerely yours,

W. E. Mussman
W. E. Mussman

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

RWMcL:CDM:BMH
60-57-193

May 13, 1971

AIR MAIL

William E. Mussman, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: United States v. Standard Oil Company of California,
Civil Action No. 52334-SC, N.D. California.

Dear Mr. Mussman:

This is in response to your letter of May 5, 1971. As we have repeatedly stated to you, we recall no documents provided to the Government by Mr. Turnbull which were not marked with TU identification, returned to Mr. Turnbull and provided for your use.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

Bernard M. Hollander
By: Bernard M. Hollander
Attorney, Department of Justice

Form DJ-96a
(Rev. 6-22-66)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO: NAME	DIVISION	BUILDING	ROOM
1. Richard B. Lynn, Esq.			
2.			
3.			
4.			

☐ SIGNATURE
☐ APPROVAL
☐ SEE ME
☐ RECOMMENDATION
☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE ____________
☐ PREPARE REPLY FOR THE SIGNATURE OF ____________
☐ COMMENT
☐ NECESSARY ACTION
☐ NOTE AND RETURN
☐ CALL ME
☐ PER CONVERSATION
☐ AS REQUESTED
☐ NOTE AND FILE
☐ YOUR INFORMATION

REMARKS

Dear Mr. Lynn:

We inadvertently failed to send you a copy of our latest letter to Mr. Mussman.

Bernard Hollander

5Dy 426

FROM: NAME	BUILDING & ROOM	EXT.	DATE
Bernard M. Hollander	Rm. 3304		5/17/7
	UUJU4:6		

RWMcL:CDM:BMH
60-57-193

May 13, 1971

AIR MAIL

William E. Mussman, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: United States v. Standard Oil Company of California,
Civil Action No. 52334-SC. N.D. California.

Dear Mr. Mussman:

This is in response to your letter of May 5, 1971. As we have repeatedly stated to you, we recall no documents provided to the Government by Mr. Turnbull which were not marked with TU identification, returned to Mr. Turnbull and provided for your use.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander
Attorney, Department of Justice

427

0000427

MAY 19 1971

LAW OFFICES OF
PILLSBURY, MADISON & SUTRO
STANDARD OIL BUILDING
225 BUSH STREET
SAN FRANCISCO, CALIFORNIA 94104
TELEPHONE 421-6133
AREA CODE 415

May 18, 1971

USA vs. Standard Oil Company
of California (American Samoa)

RWMcL:CDM:BMH
60-57-193

Bernard M. Hollander, Esq.
Attorney, Department of Justice
Antitrust Division
Washington, D.C. 20530

Dear Mr. Hollander:

Thank you for your letter of May 13, 1971. I appreciate your written confirmation that the Government saw no Turnbull documents other than those which have been marked with a "TU" identification. As you know, Mr. Turnbull has said that he is contemplating an action against Standard (apparently based upon the allegations of the Government complaint) and, for this reason, the rather incongruous absence from his files of documents which we located elsewhere gave me concern.

Sincerely yours,

W. E. Mussman

SEP 20 1971

SULLIVAN, JONES, ARCHER & BRUCHER
ATTORNEYS AT LAW
ONE ELEVEN ELM STREET
SAN DIEGO, CALIFORNIA 92101
(714) 232-6341

LYLE L. JONES

SAN FRANCISCO
CROCKER PLAZA, SUITE 2100
SAN FRANCISCO, CA. 94104
(415) 397-7667

September 16, 1971

Richard B. Lynn, Esq.
Attorney at Law
616 East Chapman Avenue
Orange, California 92667

Re: Pacific Coconut Processing Corp.

STATEMENT

For professional services rendered from December 4, 1970 through March 21, 1971:

$ 834.60

For professional services rendered from March 22, 1971 through March 28, 1971:

$ 997.00

Disbursements:

Luncheon, Messrs. Jones and Hollander	11.95
Mr. Jones' trip to San Francisco, 3/25	16.00
Long distance telephone call 3/19	2.04

For professional services rendered from May 1, 1971 through August 31, 1971:

$ 360.00

TOTAL $2,221.59

February 16, 1972

Mr. Raymond C. Turnbull
8681 Wilshire Blvd.
Beverly Hills, California

Dear Ray:

REFERENCE: STANDARD OIL - AMERICAN SAMOA

Under separate cover I am forward today all of the documents now in this office respecting the above matter.

I am additionally sending directly to Bill McCook copies of Howard L. Winton, Esquire's letter dated November 28, 1969 and Lyle L. Jones, Esquire letters dated May 21 and May 26, 1971.

I will, at an early date, sent you a copy of the letter to Mr. Jones respecting possible settlement of his outstanding fee for past services.

Thank you for your continued courtesy and coopertion in this matter.

Very truly yours,

Richard B. Lynn

RBL:mm
cc: Bill McCook

BEST COPY AVAILABLE

RICHARD B. LYNN
ATTORNEY AT LAW
880 NEWPORT CENTER DRIVE, SUITE 835
NEWPORT BEACH, CALIFORNIA 92660
(714) 644-8880

March 17, 1972

Lyle L. Jones
Sullivan, Jones, Archer & Brucher
One Eleven Elm Street
San Diego, California 92101

Dear Mr. Jones:

REFERENCE: PACIFIC COCONUT PROCESSING CORP.

I continue to forward your statements to Mr. Ray Turnbull, and regret that the matter is still unsettled.

As you know, my original meeting with Mr. Jim Sullivan and yourself prompted the conclusion that an examination into the merits of the facts could probably be done for something in the range of $1250, plus costs, and consequently I related to Mr. Turnbull an estimated fee figure of $1500. Thereafter on December 14, 1970 the sum of $1061.30 was paid. As between your firm and myself, our understanding was, I believe, that my associate fee would be 25 percent of the sums collected, exclusive of course of costs.

I realize that because of the jurisdictional motion, and other tactics employed by Standard Oil, that the analysis of the matter took longer than anticipated. I also know, as I am sure you do, that no one is ever pleased with the prospect of rendering or receiving a statement which is more than double their estimate. This is as true in the practice of law as it is in the repair of televisions or automobiles.

I do not want to suggest that you compromise your position. Because of the circumstances I would be willing to waive any claim I might have for associate fees. My continuing relationship with Mr. McCook will quite naturally be subject to some irritation, but I trust that any such irritation will be soon overcome.

Mr. Turnbull is still convinced that the matter has merit, and now that the Supreme Court has overruled Standard Oil's jurisdictional agruement, he may still wish to pursue the matter. The totality of the file documentation previously in my office is now in Mr. Turnbull's possession. I must say that I concur completely

with youropinion that the possibility of any recovery is remote.

If you feel that a compromise and settlement is appropriate, I would appreciate your comments in that regard, or you may direct that communication to Mr. Ray Turnbull at his Los Angeles address: 8681 Wilshire Blvd., Suite 104, Beverly Hills, California 90211.

Thank you for your past courtesies and cooperation.

Very truly yours,

Richard Lynn

Richard B. Lynn

RBL:mm

bcc: W. R. McCook

Robert W. Anderson
Attorney at Law

15910 Ventura Blvd.
Suite ~~XXX~~ 1412
Encino, California 91316
Phone: 986-5508

September 1, 1972

United States Department of Justice
Box 36046
450 Golden Gate Avenue
San Francisco, California, 94102

ATTENTION: Mr. Anthony Desmond

Dear Mr. Desmond:

Please be advised that this office represents Messrs. William Cook and Raymond Turnbull regarding the Standard Oil American Samoa caper.

We would greatly appreciate you forwarding a copy of the written briefs to be submitted to the Court on September 11, 1972, in the United States vs. Standard Oil case.

Thanking you for your consideration in this regard.

Very truly yours,

Robert W. Anderson
ROBERT W. ANDERSON

lb/

Initials

60-57-193
DEPARTMENT OF JUSTICE
SEP 6 1972
ANTITRUST DIVISION
SAN FRANCISCO OFFICE

AED

---

2. POST TRIAL

TEK:CDM:BMH
60-57-193

July 20, 1973

CERTIFIED MAIL

Mr. Raymond C. Turnbull
Seaways International Engineering Corporation
Suite 104
8681 Wilshire Boulevard
Beverly Hills, California

Re: United States v. Standard Oil Company of California
Civil No. 52334-SC (N.D. Calif.)

Dear Mr. Turnbull:

Since the above entitled action has been terminated by the entry of a Final Judgment by the District Court which was affirmed by the Supreme Court on June 4, 1973, we are returning herewith a set of documents numbered TU 1-100, which are copies of documents the originals of which were provided to this Department on October 29, 1969, and returned to you on November 3, 1969, on the assumption that they may be of some use to you.

Will you please acknowledge receipt of these documents by signing and returning the enclosed copy of this letter.

Your cooperation in this matter has been greatly appreciated.

Sincerely yours,

THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander, Attorney
Department of Justice

Enclosures

Received: R C Turnbull

Seaways International
Engineering Corporation

BEVERLY HILLS, CALIFORNIA 90211, U.S.A.

DEPT OF JUST
MAIL ROOM

Mr. Bernard M. Hollander, Attorney
Department of Justice, Anti-Trust Dept.
Washington, D.C.

August 16, 1973-

Dear Mr. Hollander:

I am enclosing herewith the acknowledgement of receipt of those documents you sent me on July 20, 1973.

I congratulate you on your victory over Standard Oil Company of California. I can only hope that American Samoa will actually benefit from all the effort you expended.

There is one favor you could do for me that I would appreciate. Could Tony Desmond in your San Francisco office make the government file available to my attorney for a two day perusal in San Francisco?

I haven't chosen an attorney yet but it will either be Kindell & Anderson in Los Angeles or Alioto in San Francisco. Mr. Medvene, formerly from your office, has changed law firms and I haven't met with him yet.

Again, congratulations on your persistence and tenacity on the SOCO matter.

Yours very truly,

Raymond C. Turnbull
Raymond C. Turnbull

Encl

60-57-193

AUG 20 1973

8631 WILSHIRE BOULEVARD, SUITE 104 | TELEPHONE: 213-652-0983

BMHollander:er

BBW:CDM:BMH
60-57-193

August 23, 1973

Mr. Raymond C. Turnbull
Seaways International Engineering Corporation
8631 Wilshire Boulevard
Suite 104
Beverly Hills, California 90211

Re: U.S. v. Standard Oil Company of California
(Civil No. 52334-SC, N. D. Calif.)

Dear Mr. Turnbull:

Thank you for your letter of August 16, 1973. By copy of this letter I am requesting Mr. Anthony E. Desmond, Chief of the San Francisco office of the Antitrust Division, to make available to your attorney all pleadings of public record in this matter.

Mr. Desmond's office is located at 450 Golden Gate Avenue, San Francisco, California 94102; if mailing to that office, please indicate Box 36046; telephone 415-556-6300.

Sincerely yours,

BRUCE B. WILSON
Acting Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander
Attorney
Department of Justice

Recorded No Reply
Initials Date

60-57-193
DEPARTMENT OF JUSTICE
AUG 27 1973
ANTITRUST DIVISION
SAN FRANCISCO OFFICE

BMHollander:kk

September 19, 1973

TEK:RJF:BMH
60-57-193

Mr. Peter D. Patten
Atlantic Richfield Company
International Division
277 Park Avenue
New York, New York 10017

Re: United States v. Standard Oil Company of California
Civil No. 52334-SC (N.D.Calif.)

Dear Mr. Patten:

Your company was recently sent a copy of the Court's Order setting a hearing on relief in the above-entitled matter which was issued by the Court on August 28, 1973. In order that you be fully informed, enclosed is a copy of Standard Oil Company of California's proposed plan for sharing with a competitor the petroleum storage facilities of the Government of American Samoa. The Court will be considering this plan at the relief hearing in Samoa, October 23-25, and at any subsequent hearing that may be held later. This proposal is only an initial one, and the Government is expected to make comments and suggestions as to its suitability to achieve the purpose of introducing competition into the Samoan market. Consequently, your comments and suggestions would be welcome, whether or not your company is presently interested in entering this market.

It would be greatly appreciated if you could convey your views on this matter to the Court or to this Department.

Sincerely yours,

BRUCE B. WILSON
Acting Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander, Attorney
Department of Justice

Enclosure

BEST COPY AVAILABLE

A copy of this letter was also sent to:

Mr. M. A. Cockrean
BP North America, Inc.
620 Fifth Avenue
New York, New York 10020

Burmah Oil Development, Inc.
Bank of New Orleans Building
1010 Common Street
New Orleans, Louisiana 70112

Mr. Stuart B. Hartman
Continental Oil Company
High Ridge Park
Stamford, Connecticut 06904

Getty Oil Company
3810 Wilshire Boulevard
Los Angeles, California 90010

[illegible] Refining Company, Inc.
615 South [illegible] Street
Los Angeles, California 90017

Phillips Petroleum Company
Bartlesville, [illegible] 74004

Total Petroleum (North America) Ltd.
East Superior Street
Alma, Michigan 48801

[illegible]
Vice President and General Counsel
Caltex Petroleum Corporation
380 Madison Avenue
New York, New York 10017

Mobil Oil Australia Ltd.
Melbourne, Victoria
Australia

Mr. Raymond C. Turnbull
Seaways International Engineering Corporation
8601 Wilshire Boulevard
Beverly Hills, California

SDX 0004931

193

Engineering Corporation

October 4, 1973

Mr. Bernard M. Hollander, Attorney
U.S. Department of Justice - Antitrust Division
Washington, D.C. 20530

RE: Standard Oil Proposal to share oil Storage Facilities.

Dear Mr. Hollander:

The plan is not feasible and we believe the plan would not be acceptable to proposed competitors. The adversative nature of the proposal presages abuses and an onerous burden to be borne by the competition.

Competition can only become effective if independent storage and facilities are constructed and backed by contracts that will help carry the investment costs. We propose that an order of the court force Standard to divest itself of fifty percent of its total business in Samoa at the present price structure, such divestiture to become effective upon the completion of new storage facilities by an approved supplier. At that time either company could aggressively compete with each other for more of the market by lowering prices.

New tankage cost runs between $3.00 and $5.00 per barrel. If present tankage holds 175,397 bbls., then the outside price for a new tank farm would be $876,985.00.

We believe all oil operations should be removed from Pago Harbor, including the unloading of tankers and the refueling of the fishing fleet. The present dock below the Governor's mansion should be cleaned up and utilized as a transient yacht tieup or temporary berth for visiting ships.

It is proposed that Nu'Uli lagoon be dredged and the dredged material used as backfill to create eighty five new acres of deep wat[illegible] government can share the cost. Attached hereto is some [illegible] on the feasibility of such [illegible]

The new acreage along with continuous acreage could hold a new tank farm for offloading by tankers, with direct lines to the other fueling pad at the a[illegible] requirements of the power house in Pago Harbor could be serviced [illegible] pumping directly into elevated tanks near the power house [illegible]ered and of such size as to eliminate tank truck deliveries daily to the power house. The fishing fleet would refuel in the lagoon, rather than at the present dock site next to the hotel.

There are two more reasons why Nu'Uli lagoon should be utilized. If a proposed refinery comes to fruition the natural site would be [illegible] who would set up veneer and slicing operations if they could obtain waterfront property. Other new businesses would also contribute to the fiscal well being of the island.

At your convenience we can detail all of the foregoing.

Yours very truly,

Raymond [illegible]
Vice President

14 Enclosures

8601 WILSHIRE BOULEVARD, SUITE 104 [illegible]

DILLINGHAM CORPORATION
Ala Moana Building · Honolulu 14, Hawaii · Cable: DILCORP

November 20, 1963

Mr. Raymond Turnbull
8530 Wilshire Blvd.
Suite 309
Beverly Hills, California

Dear Mr. Turnbull:

Your invitation that we consider participation in your land development proposal at American Samoa has been studied by our company and it has been agreed that we are definitely interested in prospecting this project.

With reference to your telephone call on November 18th, we feel that in order to plan an efficient investigation of the site, we will need more preliminary information on the planned development if such is available. Could you advise us on the following points:

1. In general, what is the time-frame within which the planned construction should be schedulad?
2. Does the project envision a port development as well as reclamation? If so, what would be the size and draft of ships, the extent of wharves, and the requirement for dock equipment such as cranes, etc.?
3. What would be the nature of cargoes which will be handled?

We visualize the sequence of our activities generally falling into three phases: first would be preliminary prospecting, the cost of which would be borne by the individual partners of the proposed joint venture, each according to his own requirements, with the objective of determining the feasibility; second, the engineering survey and design for dredging, reclamation and water front construction, which would be to the account of the joint venture; and third, the actual implementation of the plan by the joint venture on a cost basis to be determined by negotiation leading from the first two phases.

Between now and your return to Honolulu, we propose to examine the project with the use of such hydrographic and other charts as may be available here. We would like to recommend that you plan to stay a day or two here in order that we may explore more fully plans for finance, nature of the industries contemplated for the site, as well as the present extent of leasing intent as an indicator of the possible value of the land and facilities to be constructed.

November 20, 1963
Mr. Raymond Turnbull
Page 2

I am not sure as of this moment that one of our men with suitable qualifications will be available on the specific date of November 30 to accompany you; however, you may be sure we will follow through at the earliest appropriate time.

Sincerely,

DILLINGHAM CORPORATION

D. H. Schmuck

DMS/mp
cc: Mr. Ralph Kiewit, Jr.

November 20, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Mr. Schmuck:

I am enclosing herewith HR 2073 presently being acted upon. This Bill, in effect, would cover the lands that we would develop in Samoa. There is no question of it being passed within the next 60 days, as every one concerned has already agreed to the terms therein.

I thought it might be interesting for your file.

I will be checking into the Royal Hawaiian late in the evening of the 29th. I hope that your engineer can accompany me to Samoa on the Pan American plane leaving Honolulu at 12:30 A.M., Sunday, December 1st.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosure

November 21, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Mr. Schmuck:

I had advised you earlier that I was negotiating with a local company to put a refinery on the new land that would be created at Samoa. For a period of eight months, I have also been negotiating with the wholly owned subsidiary of Union Oil Company, Unoco, Ltd., to build a bulk plant in Pago Harbor on my present lease. This negotiation had dragged while Unoco and the parent company Union Oil checked out the feasibility of hauling finished products either from Singapore or California. It had been resolved that the trip from California would be too costly, and Unoco was interested in proceeding by hauling the product from Singapore, subject to their marketing arrangements with that facility. Jim McGee, second in command of the Unoco operation in Hong Kong, called me from Honolulu on the 19th, and advised that they would have great interest in marketing the product of a new refinery that would be built in Samoa.

I will meet with both the Unoco people and the Fletcher Oil Company on my return from Pago on the 9th of December to firm up this combination. The refinery will require 35 acres of the new land, and the Union Oil terminal will require 38 acres.

The Chairman of the Board of Jasper Corporation and his entourage of timber experts will join me in Samoa on or about January 15th to survey the picture for their exotic plywood veneer plant. I have in the past furnished them with samples of the woods available, and I have sent them logs which they have converted to veneer plywood. They will utilize all the lumber available in the Samoan group, using both American Samoa and Western Samoa woods. I propose to furnish them with the logs from the Island of Savaii, and Prince Tungi of Tonga, is willing to furnish the barges and tugs necessary to transport the logs from the islands to the Jasper plant. Their requirement in acreage is, strangely enough, 27 acres. The combination of these three companies seems to cover the reclamation that we have discussed. Obviously, we could use more land, and I intend to seek more area in the same bay from Governor Lee.

I am enclosing herewith the Dun & Bradstreet report on Jasper Corporation. They guarantee the full market for all of the product, and they are willing to either take the whole picture or joint venture the project. The Bank of America in Los Angeles have advised me that if we should desire to joint venture with Jasper, they are interested in lending us all of the money required from our side.

There are many other companies that have an educated interest in setting up shop in Samoa for tax purposes. Maybe your engineer will see other possibilities of land reclamation. You are no doubt aware of the fifty per centum rule of the Tariff Act of 1930, in which a foreign product can be processed in an American territory qualifying it as an American product, providing that the sale price of the end product is a minimum of 50% more than the cost of the foreign raw product. This would make Samoa desirable from the standpoint of textile manufacturers, or for any other manufacturer who would be able to convert Australian products for the American market.

The foregoing is just some of the background that makes Samoa more desirable than most people realize.

I am also enclosing herewith a copy of the last letter from the Jasper Corporation and a copy of the latest Industrial Incentive Act.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosures

November 22, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Don:

I had already written when your November 20th letter arrived. Answering your direct questions, please be advised as follows:

1. The project should be commenced as soon as its feasibility is determined. As I have mentioned previously, Union Oil negotiations can be concluded within 45 days. Jasper Corporation can commit by the middle of January, and the Fletcher Oil Company can commit with Union Oil. I would see to it that your company would also construct the refinery and the Union Oil Company terminal. While a long period of time is involved between agreements and construction, the land reclamation period should fill that hiatus.

2. The project should include the opening of the entrance to accomodate ships that carry freight presently to Pago - General Steam's Thor I and Thorisle, and Matson's Ventura and Sierra - I don't know their drafts. There should be enough of a turning basin, using tugs, to swing their bows to sea, making a starboard side landing to the wharves. That crude map I left with you depicts a general plan of docking. Requirements for dock equipment could be determined early by the lessees.

I don't know the difference between land reclamation and port development, unless the latter represents the inclusion of public or governmental accomodations. It may be that government funds can be allocated to a fuller development than that envisioned by us at the present time.

3. The inbound cargoes would be logs barged in for Jasper Corporation and crude oil tankers from Indonesia. The end products of Jasper would be veneer plywood heading for the States,and smaller tankers and lighters would be carrying finished petroleum products to Tonga, Western Samoa and the Cook Islands.

I shall not comment on the balance of your letter until I meet with Ralph Kiewit tomorrow.

Yours very truly,

RAYMOND C. TURNBULL,
President

[illegible] 10/10

November 27, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3468
Honolulu 1, Hawaii

Dear Mr. Schmuck:

Ralph Kiewit and I met yesterday to discuss your letter of November 20, 1963, and more specifically, the three phases you desire:

Our proposal to Mr. Wheaton, without being detailed, embodied the following:

1. Cost borne by us under preliminary prospects would be limited to paying for the preliminary trip of Dillingham's engineer to make an on-site inspection, and to make available to such engineer quarters and transportation in American Samoa, as well as all required maps and information compiled by the Government of American Samoa.

2. Engineering, survey and design for dredging, reclamation and waterfront construction, and all costs accrued to Phase 2, would be advanced by Dillingham to the Joint Venture and repaid by the Joint Venture to Dillingham from the first lease proceeds received.

3. Actual costs of the implementation of the plan by the Joint Venture would be advanced by Dillingham to the Joint Venture and repaid by the Joint Venture to Dillingham from the first lease proceeds received.

4. It is understood that Dillingham's investment in the Joint Venture be conditioned on firm commitments on the leaseholds in an amount sufficient to repay all costs resulting from the implementation of the plans for the sale thereof. The Balance of the proceeds derived from leaseholds, over and above the costs, would be divided equally between the Joint Venturers.

In lieu of expending large sums of money in a business neither Mr. Kiewit nor I are familiar with, we would undertake to supply lessees, approved by you, that would firmly commit prior to the commencement of your referred to Phase 2.

Mr. Donald Schmuck
Page -2-

November 27, 1963

I will have conversations with Governor H. Rex Lee next week, and will further detail to you his attitude towards this project. Any available information or engineering reports in the Government file will be furnished you on my return.

Yours very truly,

RAYMOND C. TURNBULL,
President

Copy Hannum 12/10

DILLINGHAM CORPORATION
Ala Moana Building · Honolulu 14, Hawaii · Cable: DILCORP

November 29, 1963

Mr. Raymond C. Turnbull
Royal Hawaiian Hotel
Honolulu, Hawaii

Dear Mr. Turnbull:

Because of the time element, we are not prepared to send a representative to Samoa with you on Sunday; however, based on the information in your recent letters, we have assigned a member of our engineer staff the task of making a rough layout for a minimum port facility and producing a "round house" estimate of the cost.

We have all the charts locally available on Samoan hydrography, but all they indicate in the lagoon is "shallow" water. For estimating fill requirements, we will assume an average water depth of 5 feet in the reclamation area. This can be easily modified following an engineering site survey - or possibly from the engineering reports in Samoa which you stated would be made available on your return.

At this point, the most important thing is to determine the feasibility as developed from the cost and in terms of the possible revenue anticipated from the land. We would like to explore these areas with you more fully, possibly the next time you pass through Hawaii if you can so arrange your schedule.

Our thoughts now are that our first trip down would probably be by a representative qualified to participate in general discussions at all levels as they affect our participation in the project - possibly myself. The technical aspects of the job, then, would be prospected at the appropriate time by a team of specialists equipped to take soundings and borings and evaluate current and wave action as they affect engineering design for marine developments.

Your letter of November 27th arrived today and your summary of the practical arrangements for getting this project on the road appear to me to be quite sensible. I will try to get together with you this weekend - if not, we will await your return from Samoa with the greatest of interest.

Best regards and Aloha,

DILLINGHAM CORPORATION

Don Schmuck
D. M. Schmuck

DMS/mp

December 10, 1963

Mr. Donald Schmuck
Dillingham Corporation
Box 3433
Honolulu 1, Hawaii

Dear Mr. Schmuck:

I received your November 29th letter at the Royal Hawaiian Hotel, and then went on down to take up this land reclamation with Governor Lee.

The Government of American Samoa has a test rig that would be suitable for coring to determine the thickness of the coral in the lagoon. Their drag-lining operation in the same lagoon has indicated at least a minimum of 30 feet of coral without showing any lava. The map I left with you indicates the spots that were drag-lined in the past. There is in existence a geologic chart showing the rock formations in different parts of the island.

The land area at Tafuna is lava with lensing of coral, such coral formations being indicated for the lagoon area. Mr. Ed Brunton, who is head surveyor for the Government, had nothing in his file that would help your investigation, nor was there any other information available to help in the determination.

Governor Lee is most enthusiastic about this project, his interest being in the establishment of new industries for Samoa. He is familiar with the Jasper Corporation's activities and interests, and towards this end, is making available to me on or about January 15th, a 130 foot former oceanograph ship, the Hugh M. Smith, which is enroute to Pago from Los Angeles. This ship will be used at that time to take the Chairman of the Board of Jasper and his timber experts on a survey trip to the Island of Savaii to determine the feasibility of a logging enterprise to furnish raw product to their plant at Tafuna lagoon.

I talked to Mr. Clausen, Public Works Director for Western Samoa, He indicated that they were going to dredge Asau Harbor on Savaii, and then move over to create a harbor at Apia, Western Samoa. I proposed that there could be possible savings in time and money if they dealt with you people rather than Merritt, Chapman and Scott out of New York. It was my observation, after a general discussion with him, that he planned to be in touch with you people very shortly. I had understood before that your people had made a survey of their harbor development, but that the price involved was too much for their government to carry. It now appears that the United Nations has a finger in the pie - you might want to follow up on renewing negotiations.

BEST COPY AVAILABLE

Mr. Donald Schmuck
Dillingham Corporation
Page -2-
December 10, 1963

I am enclosing herewith a squib out of the Western Samoa paper and a copy of a map of the harbor in Savaii that they plan to dredge. Evidently, they have great plans to develop the Asau Harbor area.

I plan to get some indication from Union Oil on their facility in American Samoa by tomorrow, and will pass along the information as soon as received.

If you are the engineer for the initial project and could possibly arrange a trip sometime around January 15th, maybe you could go along on this trip to Savaii and possibly drum up some other business for your company.

I have a feel out to Prince Tungi, of Tonga, regarding possible dredging work to create a large harbor from that shallow area on Tonga Tapu. This is all just exploratory talk in order to sweeten the pie for your dredging operation south of the equator.

Another prospect in Samoa itself could conceivably be in the harbor at Pago Pago. I know Governor Lee is interested in creating as much land as possible in the bay area, as well as creating more land for the hotel site on Goat Island. You can weigh this feasibility on your trip to Pago,

I am going to inform the Union Oil Company that if the construction of a refinery is feasible, you people be given the opportunity to construct it. Again, if the refinary is feasible, I am going to undertake to obtain governmental financing at 4% interest and own a large chunk of the refinery itself.

The governmental climate for the land reclamation project is good. We have the educated interest of good lessees and there seems to be only one point that could sink the ship at the present time...whether the bottom of the lagoon is coral or lava.

I talked to Mr. Thrapp, Director of Public Works for G.A.S., regarding the availability of one of the two test rigs. I requested the rig that would be able to take cores. He informed me they are going to drill some test holes in the area that will have a one million barrel capacity water tank constructed, but that the rig would be made available to us when required. Also available to us is a steel barge that has a fixed crane aboard. Conceivably, the rig could be placed aboard this barge for purposes of coring the lagoon bottom. I believe many of the services and the equipment of G.A.S. will be made available to us at no cost.

Strangely enough, the only concern the Governor had in relation to the construction of a refinery was air pollution that might contaminate or make obnoxious the downwind areas already proposed for recreational purposes. After my talks with Union Oil, I am supposed to inform Governor Lee of the outcome so that he may take up the proposal with Secretary Udall. Since this operation concerns the refining of foreign crude oil, he would require some advice from experts in the Department of the Interior who are charged with the responsibility under the law with regard to foreign and

Mr. Donald Schmuck
Dillingham Corporation
Page -3-

December 10, 1963

domestic oil production. Frankly, I believe this excuse disguises his exhilaration over the prospect, and that his intent would be to take a deep bow in Washington for having attracted to Samoa a business that would enhance the strategic position, if any, of Samoa. Obviously, a refinery would be extremely attractive to G.A.S. in terms of getting cheaper fuel oil and other petroleum products. Standard Oil, as you know, have a virtual monopoly at the present time, the government having to pay 19¢ per gallon for diesel fuel. A refinery would attract the tramp trade for fueling purposes, and all the other attendant trickle down benefits.

Reference is made to the Bill H.R. 2073 that I sent to you previously. This Bill was passed by the Congress two days before Kennedy left for Dallas. In the Bill it required specific locations to be determined. The Congress knocked out that provision so the submerged lands deal is no longer a problem. Incidently, this delighted the Governor as regards our land reclamation project.

I will keep the information coming as fast as I receive it.

Yours very truly,

RAYMOND C. TURNBULL,
President

Enclosures (2)

February 17, 1964

To: Ray Turnbull

From: Don Schmuck

Subject: Samoa Dredging and Land Reclamation

1. Our computations, based on a fill of 85.5 acres to a height of about 7 or 8 feet above sea level from a variable depth of water (yet to be determined) indicate a fill requirement of about 2,000,000 cubic yards. We have laid out two alternatives for dredging: one with an entrance channel 400 feet wide and a turning basin in the inner harbor; and a second plan with reduced dimensions including a channel 200 feet wide. The first plan would result in nearly 4,000,000 cubic yards of dredging which would produce surplus fill. The alternate plan would dredge about 2,800,000 cy which would be about minimum for a useful harbor. Both plans would dredge to 35 feet.

2. Based on the use of your dredge, the following rough cost figures can be used for your purposes:

   a. Reclaimed land will cost you about 54¢ per square foot of useful surface. For the 3,966,000 sq. ft., then, the cost will be about $2,000,000. This does not include cost of purchasing and moving dredge, but does include total cost of operations.

   b. Any rip rap would be an additional cost. (It appears that the coral fill would be reasonably stable at about 45° or better. This means that a dock about 30 feet wide would give you 35 feet depth along side).

   c. A concrete dock 30 feet wide can be built for about $600 per linear foot. If you faced the entire reclaimed water front with a continuous concrete dock, your costs would be about $3,000,000.

   d. Sheet piling driven at water's edge and backed with fill can be done at substantially less cost (perhaps half as much) and might be preferable except for those concrete docks required by your tenants at specific locations.

   e. Due to the limited capacity of the small dredge, the project will last from 19 to 24 months. A large dredge, of course, could do it in half the time, but your mobilization costs would be heavy.

   f. The proposed dredge will require 4 or 5 feet of water and it appears likely it could enter Tafuna Bay without extensive work on the channel.

D. M. Schmuck

DMS/mp

February 28, 1964

MEMORANDUM

To: Ray Turnbull

From: Don Schmuck

Subject: Samoan Dredging

1. DREDGING

We have made several studies of methods to provide docking facilities at the proposed Tafuna Bay harbor. These rough estimates are an extension to the land reclamation costs quoted in my memorandum of February 17th. All costs are contingent upon confirmation of actual terrain and hydrographic conditions by engineering survey.

The least expensive, useful docking facility would consist of four dolphins plus a short pier section of timber adequate for cranes and trucks. With an alongside water depth of 35 feet and an elevation of 8 feet, such a dock would cost in the neighborhood of $200,000. Three of these docks would appear desirable to make use of the entire 85.5 acres.

At the other end of the scale from the rudimentary facility outlined above, would be prestressed concrete docks capable of supporting gantry cranes, each dock 400 feet long, and each costing about $500,000.

2. KAISER'S DREDGE

We have conducted a preliminary survey of the KAISER dredging plant and feel that we must run a detailed mechanical check before we can inform you whether this plant can be in operating condition in time to be loaded on 15 March. However, the first report indicates that it still has a lot of dredging life in it and appears to be in fair shape.

We will continue a detailed inspection of the plant and wire our recommendations to you in Samoa during the week. If our report is favorable, I would suggest that you stay in Honolulu long enough on your return to put together an agreement.

The crew for this plant would be 10 or 12 men including 3 or 4 Americans. However, to get full use of the dredge, around-the-clock operations are necessary - which means three 8-hour shifts with this many men in each shift. All this was contemplated in our estimate of monthly operating cost.

3. With regard to dredging and fill for the Rainmaker site in Pago Pago, with the present lack of information, the only practical way to handle this work is to negotiate an agreement on a cost plus basis, to be replaced by a guaranteed lump sum contract when the job can be properly estimated.

HAWAIIAN DREDGING & CONSTRUCTION CO.

D. M. Schmuck

DMS/mp

August 13, 1964

Mr. John R. Malone
Manager
Business Development Department
Dillingham Corporation
Box 3468
Honolulu, Hawaii 96801

Dear John:

Thank you for your letter of August 7, 1964 regarding Bank of Hawaii financing and matters Samoan. Sorry I missed your call on Friday, however 4:55 your time is 7:55 our time and I left the office at 5:30.

Your last paragraph was unclear to me, but following out the figures and costs of creating 85 acres in Samoa, I come out with the following costs of the total land reclamation which appear to be safe figures:

1. $1,512,000 - 2,800,000 cubic yards of fill @ 54¢/yard
2. $ 60,000 - Mobilization one way dredge
3. $ 30,000 - Insurance one way dredge
4. $ 720,000 - 1200 foot dock @ $600/linear foot

$2,322,000

If Dillingham were to receive the above costs out of first monies and 40% of the above costs, or $728,000, then it would appear to be a fair return on the investment.

I cannot measure a 30% or 40% return on investment capital after taxes not knowing your tax figure. Don Schmuck had previously suggested that a new company, possibly Samoan, be formed to handle this land reclamation project. Lessees acceptable to you would commit themselves to the company. The cost of the project, without embellishment or increased charges against the project, would be drawn out of the company first by Dillingham. When the actual out-of-pocket costs had been recovered by Dillingham, than a further designated percentage would be drawn by Dillingham. The balance would remain in the company.

I am assuming that your reference to donating the dredge to the Samoan government would follow the completion of the land reclamation project so as not to become involved in the demobilization and return of the dredge to Honolulu.

I have tried out figures using $75,000 a month operating expenses of the dredge - plus the mobilization, insurance and dock construction costs - and these figures are less than the ones used hereinabove. As a matter of interest, please be advised as follows:

1. Western Samoa, who purchased a brand new small dredge for $200,000 from the East Coast, is producing and depositing 300 yards per hour. Merritt, Chapman & Scott and Tecon Corporation from Dallas are operating the dredge, and their costs of operating at the present time, not counting amortization, mobilization or heavy maintenance, but including the labor and fuel, is running 9¢ per cubic yard.

2. Governor Lee has reclaimed 5-1/4 acres for his hotel site. His costs, including the rip rap, were the equivalent of $1.00 per yard or a total of $90,000 for 90,000 yards. This fill was obtained by the use of a clam shell outside of the bay area and the material was trucked in along with the rip rap which was hauled from 10 miles away.

3. If I obtain written commitments from strong tenants, the land reclamation becomes bankable in that the strength of the proposed tenants will assure bank financing on the work to be performed.

All of the foregoing is projected in order to clarify the potential of this proposed project. The present commitment I have tor 30 acres, even at $1.50 per square foot, is only $362,300 shy of the total cost.

I will contact you on my next trip over.

Yours very truly,

RAYMOND C. TURNBULL,
President

Mr. Robert Burrows, Vice President November 24, 1965
Dillingham Corporation
Box 3468, Ala Moana Building
Honolulu 1, Hawaii

Dear Mr. Burrows:

John Malone suggested I contact you regarding a possibility in American Samoa. Reference is made to all of the Don Schmuck file concerning dredging and land reclamation in the Tafuna Bay area, American Samoa.

I had, prior to February, 1964, proposed to Governor H. Rex Lee that we would dredge the lagoon, create from 85-100 acres of deep water frontage and lease such land to new industry for American Samoa, the consideration for a fully paid up lease for 55 years to the A.S. Government being the cost of the total land reclamation. At the time of the proposal H.R. 2073 -"to place certain submerged lands within the jurisdiction of the Governments of Guam, the Virgin Islands and American Samoa" was being either tested or amended.

It is my present understanding that the Government of American Samoa is now actively engaged in clearing through the Congress the right to dredge and create new land in the same area and for the same purposes that we had earlier proposed.

My associates wish to create a new bulk petroleum facility in Samoa, complete with tankage of six million gallons, docking space for tankers and refueling facilities. With no available deep water frontage in Pago Pago Harbor, it appears obvious that the development of Tafuna Bay is warranted. If such land was created my associates would require long term leases.

I wouldn't attempt to second-guess the Governor but I could predict that there would be interest from his government in having private enterprise pay the costs of the land reclamation in return for an equitable leasehold. A combination of strong lessees over a long period of time could be of possible interest to your company in undertaking the land reclamation.

Subject to the Governor's approval, my associates are ready to construct a $500,000. terminal. Your review of the Schmuck file and your comments are requested on whether the timing is right for preliminary overtures to Governor Lee.

Yours very truly,

Raymond C. Turnbull
8756 Holloway Dr., Los Angeles 69
Telephone 652-4733

DILLINGHAM CORPORATION
Box [illegible] · Honolulu, Hawaii [illegible] · Cable: DILCO

November 30, 1965

Mr. Raymond C. Turnbull
8756 Holloway Drive
Los Angeles 69, California

Dear Mr. Turnbull:

This will acknowledge your letter of November 24th concerning land reclamation possibilities at Tafuna Bay, American Samoa.

It is interesting to note that the Government of American Samoa is active in clearing through Congress the right to dredge and create new land from certain submerged lands in the area. Favorable results in this regard are obviously a prerequisite to undertaking any project in this area.

We of course would be interested in any major dredging project and certainly you are acquainted with our qualifications and facilities to undertake such a program. We would not contemplate at this time entering into any dredging program the consideration for which would be a fully paid up lease or our ownership in such reclaimed land. In the event you are successful in obtaining prime lessees or other developers who may be interested in financing the cost of such reclamation on a direct contract basis then we would develop further the possibilities of a dredging contract.

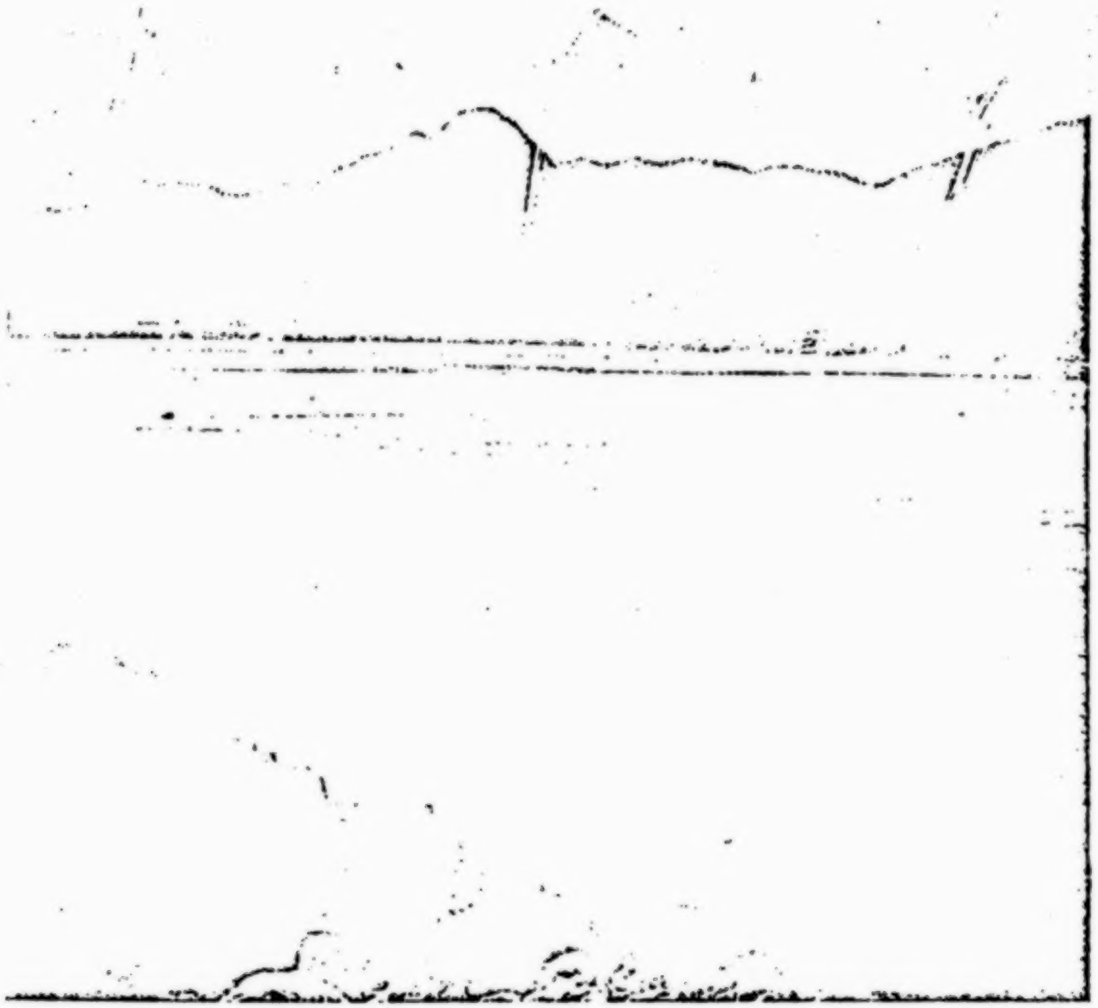
We would appreciate it if you would keep us advised of the success you may have in developing such lessees as well as the progress of the Government of American Samoa pursuant to HR 2073.

Very truly yours,

DILLINGHAM CORPORATION

R. B. Burroughs
Vice President

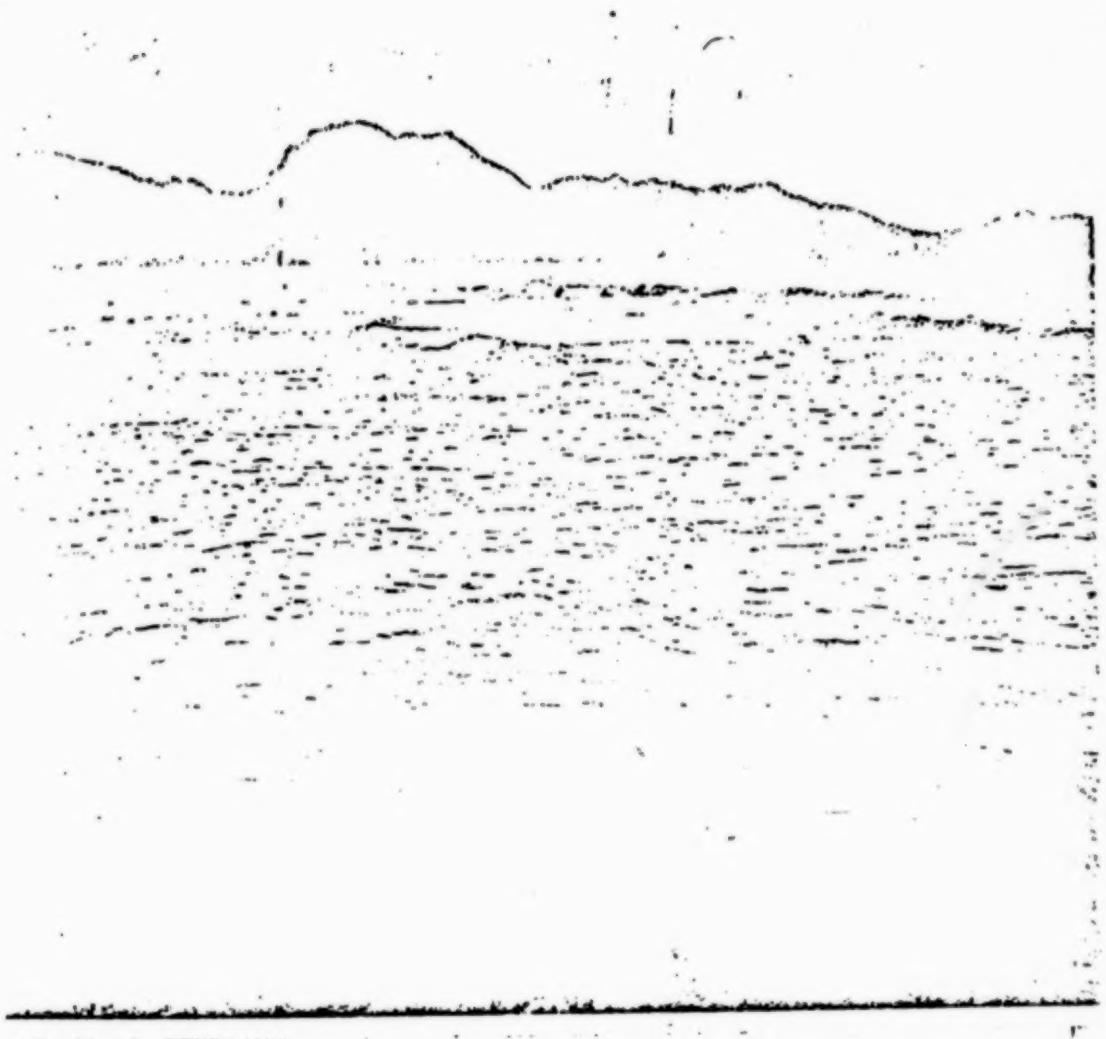
RBB/mp



·oking into Nu'Uli Lagoon fron sea entrance. The Bay turns right past Coconut
·int (clump of palms across present channel). At low tide the tidal flats are
posed.

(Return pictures after use)

Place pictures alongside of each
other for general panorama



rance to Nu'Uli Lagocn (Tafuna). Channel would be widened, buoyed and
pened. Tankers could lie offshore and unload petroleum product via pipeline
come through channel to dock and turning basin .

BEST COPY AVAILABLE

BMHollander:er

TEK:JCF:BMH
60-57-193

October 18, 1973

Mr. Raymond C. Turnbull
Vice President
Seaways International Engineering Corp.
8531 Wilshire Blvd., Suite 104
Beverly Hills, California 90211

Re: United States v. Standard Oil Company of California
(Civil 52334-SC, N. D. California)

Dear Mr. Turnbull:

Thank you for your letter of October 4, 1973, and the enclosed correspondence dealing with an alternate storage location at Nu'Uli lagoon. I am returning herewith the 14 enclosures which I assume you will wish to keep as part of your files. They are not required by the Government at the coming relief hearing in American Samoa.

Your continuing interest in this matter is greatly appreciated.

Sincerely yours,

THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander
Attorney
Department of Justice

Enclosures

cc: Roger J. Nichols, Esq.
Kindel & Anderson
Twenty-Sixth Floor
555 South Flower Street
Los Angeles, California 90071

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
-vs-
STANDARD OIL COMPANY OF CALIFORNIA,
Defendant.

NUMBER C-52334

The above-entitled matter came on for hearing, pursuant to notice, at 9:40 a.m. Tuesday, October 23, 1973, in the Main Courtroom, Courthouse, Fagatogo, American Samoa, before the Honorable Samuel Conti, Judge, presiding.

APPEARANCES:

For Plaintiff:

BERNARD M. HOLLANDER, ESQ.

Antitrust Division
United States Department of Justice
Washington, D. C.

For Defendant:

WILLIAM MUSSMAN, ESQ.
THOMAS J. KLITGAARD, ESQ.

Pillsbury, Madison & Sutro
225 Bush Street
San Francisco, California 94104

- - -

Now there is an indication from the Governor's testimony that the government has had contacts, has had correspondence with respect to this plan, comments on it. I wonder if maybe we can't have an understanding here that we could be furnished with copies of that correspondence, and with the comments?

MR. HOLLANDER: As far as I am concerned you have a list of the companies to whom I sent the Court's Order and the plan. As I mentioned, the only one that the Governor, as far as I know, had gotten a reply to, was the plan of Shell.

I am reluctant before the other hearing is finished to reveal any comments. If the company is willing to come in and make the comments on the record to Your Honor, which I think should be done, all right. I don't know how else to do it,

because --

MR. MUSSMAN: Give us the letters.

MR. HOLLANDER: Excuse me. I know that. I would like Your Honor's guidance on that. I am concerned. When I write and talk to somebody and ask them for their comments and they give me comments in confidence -- I don't know whether they are in confidence -- I can at least ask the companies for their permission.

I would like to do that before I reveal anything.

MR.MUSSMAN: May I just suggest if there is correspondence with the government from companies who say they consider the program that we had proposed to be workable and operatable and fair, I would think that would be of relevance. They may not come forward and testify to that. But I think it would have weight in the ultimate determination of what we do here.

MR. HOLLANDER: I don't want to mislead you. There is no great bulk of correspondence. Mostly the companies said --

JUDGE CONTI: Why don't you do this: If there are any letters along that nature, send copies to Mr. Mussman. If you feel they are of such a nature you don't feel they should be sent to Standard, send them to the Court and I will read them in camera and determine at that point.

MR. HOLLANDER: I should ask the companies' permission, or ask them to write up something I could give to Mr. Mussman.

JUDGE CONTI: If they write a letter to you in confidence because of certain business secrets they might have, or certain procedures, then just let me read it in camera and decide.

* * * *

KINDEL & ANDERSON
LAWYERS
TWENTY-SIXTH FLOOR
555 SOUTH FLOWER STREET
LOS ANGELES, CALIFORNIA 90071
(213) 680-2222

1020 NORTH BROADWAY
SANTA ANA, CALIFORNIA 92702
(714) 558-7777

610 NEWPORT CENTER DRIVE, SUITE 1220
NEWPORT BEACH, CALIFORNIA 92660
(714) 640-0880

23521 PASEO DE VALENCIA
SUITE 212
LAGUNA HILLS, CALIFORNIA 92653
(714) 830-6660

CABLE ADDRESS
KAYANDA

REFER TO FILE NO.
06491-5-000-535(535)

November 7, 1973

Bernard M. Hollander, Esq.
United States Dept. of Justice
Anti-trust Division
Room 3222
Washington, D. C. 20530

Dear Mr. Hollander:

The purpose of this letter is to advise you on behalf of Rey C. Turnbull and William R. McCook that I have no objection to your forwarding Mr. Turnbull's letter to you of October 4, 1973 to Judge Conti for his review. I also have no objection to the letter being given to counsel for Standard Oil Company.

However, I would greatly appreciate it if you would point out to Judge Conti and to counsel for Standard Oil Company that the letter was written by Mr. Turnbull prior to the time Messrs. Turnbull and McCook retained National Economic Research Associates to aid them in developing a definitive plan.

We anticipate that the definitive plan will be formulated - at least in its initial stage - within the next four weeks.

Very truly yours,

Roger J. Nichols

Roger J. Nichols
of Kindel & Anderson

RJN:ba
cc: Messrs. Turnbull, McCook

DEPARTMENT OF JUSTICE
27 NOV 12 1973
ANTITRUST

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UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
TEK:JCF:BMH
60-57-193

November 28, 1973

AIR MAIL

Honorable Samuel Conti
United States District Judge
United States District Court
Northern District of California
San Francisco, California 94102

Re: United States v. Standard Oil Company of California, (Civil No. 52334-SC, N.D. Calif.)

Dear Judge Conti:

Pursuant to your instructions at the hearing in American Samoa, I am enclosing the following letters received from potential market entrants so that the Court might have the benefit of the comments made:

(1) Letter from Continental Oil Co., dated October 15, 1973;

(2) Letter from Hawaiian Independent Refinery, Inc., dated August 21, 1973;

(3) Letter from Seaways International Engineering Corp., dated October 4, 1973;

(4) Letter from Union Oil Co., dated September 10, 1973.

We had informed each of these companies that we wished to forward their comments to the Court and, if the Court so decided, to SoCal's counsel. While counsel for Seaways International pointed out that its comment on the SoCal Plan was preliminary and that Seaways was formulating a definitive proposal, each company stated that it had no objection to providing its comments to SoCal's counsel.

Since SoCal's counsel has agreed that any information contained in the above letters will be for their use only and not for the use of SoCal's operating personnel, and that this same condition will also apply to Shell-New Zealand's letter of August 6, 1973, to Governor Haydon, which was produced at the hearing in Samoa, we are providing copies of the letters directly to Mr. Mussman.

Sincerely yours,

THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division

Bernard M. Hollander

By: Bernard M. Hollander, Attorney
Department of Justice

Enclosures

cc: William E. Mussman, Esquire
Pillsbury, Madison & Sutro
225 Bush Street
San Francisco, California 94104

A. T. Biggers
Associate General Counsel

Continental Oil Company
P.O. Box 2197
Houston, Texas 77001
~~(713) 225-1511~~

OCT 17 8 33 AM
DEPT. OF JUSTICE
MAIL ROOM
GROH

October 15, 1973

Mr. Bernard M. Hollander, Attorney
Department of Justice
Antitrust Division
Washington, D. C. 20530

Re: United States v. Standard Oil Company of California - Civil No. 52334-SC (N.D. Calif.)

Dear Mr. Hollander:

Your letter of September 19, 1973, subject as above, to Mr. Stuart B. Hartman of Continental Oil Company in Stamford, Connecticut, has been referred to me.

Although our company has not marketed in that area of the world, and has no present intentions of doing so, our Product Supply and Distribution people have reviewed the material submitted in your letter, and state that the proposed terminaling agreement is generally similar to other agreements covering the terminaling of commingled product at a jointly used terminal. However, they do feel that a flat terminaling fee or an allocation of costs based on through put might be more appropriate under the circumstances.

Very truly yours,

ATB-en

60-57-193

27 OCT 17 1973
ANTITRUST

HAWAIIAN INDEPENDENT REFINERY INC.
EXECUTIVE OFFICES: 1060 BISHOP STREET
MAILING ADDRESS: PO BOX 3379 / HONOLULU, HAWAII 96801
TELEPHONE (808) 521-2337 / TELEX 723-324 HIRI HR

JAMES F. GARY
PRESIDENT

AUG 23 11 32 AM '73
DEPT. OF JUSTICE
MAIL ROOM
GROH

August 21, 1973

Mr. Thomas E. Kauper
Assistant Attorney General
Antitrust Division
United States Department of Justice
Washington, D. C. 20530

RE: TEK:CDM:BMH
60-57-193

Dear Mr. Kauper:

Thank you for allowing us an opportunity to reply to Standard Oil's proposal for sharing their storage facilities in American Samoa. While we have no definitive plans for entering the Samoan market at this time, we do feel that it is tributary to our refinery and, thus, offer the following comment.

Because of its remote location, limited storage facilities and low throughput, the scheduling of product deliveries into American Samoa would be a major problem. A lack of full cooperation between all parties involved could result in excessive tanker and/or barge delays and, thus, substantial increases in distribution costs. This can be largely overcome, however, by requiring SOCAL to enter into an exchange agreement for the supply of product out of its Pago Pago terminal or by requiring them to segregate a block of storage for exclusive use by a competitor. While the first alternative would appear to be the most economical, the second might be satisfactory to a party with existing distribution lines passing through the area.

We would appreciate being kept informed of all future developments and will be happy to discuss any questions or comments you may have concerning the above.

Sincerely,

James F. Gary
President

cb

60-57-193

27 AUG 23 1973
ANTI-TRUST

Seaways International
Engineering Corporation

BEVERLY HILLS, CALIFORNIA 90211, U.S.A.

Mr. Bernard M. Hollander, Attorney
U.S. Department of Justice - Antitrust Division
Washington, D.C. 20530

October 4, 1973

RE: Standard Oil Proposal to share oil Storage Facilities.

Dear Mr. Hollander:

The plan is not feasible and we believe the plan would not be acceptable to proposed competitors. The adversative nature of the proposal presages abuses and an onerous burden to be borne by the competition.

Competition can only become effective if independent storage and facilities are constructed and backed by contracts that will help carry the investment costs. We propose that an order of the court force Standard to divest itself of fifty percent of its total business in Samoa at the present price structure, such divestiture to become effective upon the completion of new storage facilities by an approved supplier. At that time either company could aggressively compete with each other for more of the market by lowering prices.

New tankage cost runs between $3.00 and $5.00 per barrel. If present tankage holds 175.397 bbls., then the outside price for a new tank farm would be $976,985.00.

We believe all oil operations should be removed from Pago Harbor, including the unloading of tankers and the refueling of the fishing fleet. The present dock below the Governor's mansion should be cleaned up and utilized as a transient yacht tieup or temporary berth for visiting ships.

It is proposed that Nu'Uli lagoon be dredged and the dredged material used as backfill to create eighty five new acres of deep water frontage. Both industry and government can share the cost. Attached hereto is some correspondence with Dillingham on the feasibility of such a project.

The new acreage along with contiguous acreage could hold a new tank farm for offloading by tankers, with direct lines to the other fueling pad at the airport. The requirements of the power house in Pago Harbor could be serviced by the use of dracone, pumping directly into elevated tanks near the power house. The tanks would be metered and of such size as to eliminate tank truck deliveries daily to the power house. The fishing fleet would refuel in the lagoon, rather than at the present dock site next to the hotel.

There are two more reasons why Nu'Uli lagoon should be utilized. If a proposed refinery comes to fruition the natural site would be Tafuna. We also have clients who would set up veneer and slicing operations if they could obtain waterfront property. Other new businesses would also contribute to the fiscal well being of the island.

At your convenience we can detail all of the foregoing.

Yours very truly,

Raymond C. Turnbull
Vice President

14 Enclosures ✓

8681 WILSHIRE BOULEVARD, SUITE 104 | TELEPHONE: 213-652-0983

Union 76 Division: Western Region

Union Oil Company of California
Union Oil Center, Box 7600, Los Angeles, Calif. 90051
Telephone (213) 486-6719

UNION

Joseph Byrne
Vice President, Marketing

September 10, 1973

Mr. Bernard M. Hollander
Antitrust Division
U. S. Department of Justice
Washington, D. C. 20530

Dear Mr. Hollander:

We appreciate the opportunity to discuss the situation in American Samoa and to be able to contribute some suggestions. We do have an interest in serving in that area and want to comment on the plan submitted by Standard for compliance with the U. S. District Court decision.

These thoughts are presented without any prejudice regarding the case which you discussed with us, but rather are made with the objective in mind for a viable, practical, marketing basis under which Union could enter the Samoan market. As we told you, we do not believe it would be very practical for Union to schedule tankers into Samoa to deliver products because our total volume would be small relative to normal tanker capacity. Also, companies such as Union and Standard have experience in negotiating joint operation and/or exchange agreements.

Union would propose that it (or any other potential supplier) be given an opportunity to work out a normal "exchange/supply" with Standard whereby Union would receive desired product from Standard's facilities at Samoa, and return equivalent products to Standard at a location determined in normal negotiations. Union would expect to pay Standard an appropriate differential reflecting the proper costs for product thruput in Samoa as well as a recognized location differential between Samoa and the location where Union returns product to Standard. We would propose that such an exchange be subjected to the approval of the Court to be certain that it was consistent with the judgment.

It would seem, having determined that other competitors are to be assured access into the Samoan market, that a more competitive situation would result if the parties worked out between themselves an arrangement, subject to Court approval, rather than seek to impose a basis where the potential competitors were not involved. In the long run, authority of the Court to examine and approve the arrangement should encourage the parties to conclude a suitable agreement.

Mr. Bernard M. Hollander
September 10, 1973
Page #2.

One additional thought - the supply of diesel fuel is tightening throughout the world. It appears to me that a consumer today ought to be as much or more concerned with having an assured long-term supply as he is about having a low price. In fact, in the next few years, as low sulfur fuels become even more in demand, assurance of supply probably will greatly outweigh modest differences in price. This factor ought to be recognized in evaluating any final plan regarding Samoa.

Yours very truly,

Joseph Byrne

JB/fmw

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Supreme Court, U. S.
FILED
JUN 22 1976
MICHAEL [illegible] JR., CLERK

APPENDIX
Volume II

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1251

STANDARD OIL COMPANY OF CALIFORNIA,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

On Motion to Recall Mandate and for Leave for District Court to Consider Motion to Set Aside Judgment for Fraud Upon the Court, Pursuant to Rule 60(b), Federal Rules of Civil Procedure

SORG PRINTING COMPANY OF CALIFORNIA, 346 FIRST STREET, SAN FRANCISCO 94105

Supreme Court of the United States

October Term, 1972

No. 72-1251

Standard Oil Company of California,
Appellant,

vs.

United States of America,
Appellee.

On Motion to Recall Mandate and for Leave for District Court to Consider Motion to Set Aside Judgment for Fraud Upon the Court, Pursuant to Rule 60(b), Federal Rules of Civil Procedure

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1. United States of America v. Standard Oil Company of California, United States District Court, Northern District of California, Civil No. 52334

a. DEPOSITION: OCTOBER 1, 1970: RAYMOND C. TURNBULL

United States District Court for the
Northern District of California

UNITED STATES OF AMERICA, *Plaintiff*, vs. STANDARD OIL COMPANY OF CALIFORNIA, *Defendant*.	Civil No. 52334

* * * * * * *

[4]

RAYMOND C. TURNBULL,

called as a witness on behalf of the Defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MUSSMAN [Counsel for Standard]:

* * * * * * *

[9]

* * * * * * *

Q. Now, in reviewing the various documents that were produced by you for Mr. Hollander and Mr. Hollander gave us

[10]

copies of them, it appears that you were quite active in attracting various kinds and types of businesses to American Samoa. * * *

* * * * * * * *

[71]

* * * * * * * *

Q. If you read on, you will see in this paragraph [TU 23-24] a reference to a conversation that you had had with Fletcher.

A. Yes. I just mentioned him before.

Q. Yes. What sort of a deal did you foresee between Fletcher and Union here?

A. I didn't see any. I went down to find out from my friends what the actual prices on shipboard—what the shipping costs would be. I was just on a hunting expedition to determine prices for myself.

* * * * * * * *

[72]

* * * * * * * *

Q. As I read this paragraph, what you discussed with Fletcher was the possibility of Fletcher opening a refinery in American Samoa and refining Indonesian crude, and then, somehow or another, Union was going to, I guess, market the product.

I'm just asking you. That's what I gather from reading this, but I'm just asking you what you did have in

[73]

mind.

A. You are going to have to understand, you being an attorney and me being a promoter, that ideas turn on and sometimes when you pursue them, they don't make any sense. And I was discussing this with—I was discussing this thing with the governor—

* * * * * * * *

Q. You say this made some sense to Fletcher when you discussed it?

A. Fletcher wanted to sell oil.

Q. Crude?

A. Was willing to sell me crude.

* * * * * * * *

Q. You mean they were going to ship crude from the States to Samoa?

A. This is what I did. Now, something we haven't even discussed yet was that we were even talking—and this was the same time when I was looking into the possibilities of putting a refinery on Tutuila, T-u-t-u-i-l-a, Western Samoa.

Q. That's what this says.

A. And I asked Fletcher about it. I said, "At least

[74]

this is an idea, the beginning of an idea. Would you people be interested in this?"

And he indicated interest in doing it. It never got off the ground.

* * * * * * * *

[121]

* * * * * * * *

Q. Now, in your letter of June 2, you mention the fact that you called on the Mobil people and tried to stir up some interest there.

A. I not only called on them once in New York, I called on them three times. And I called the Mobil people, if I remember correctly, in Australia.

And I went back and I—this refreshes my memory. My handwriting in the letter dated June 9 from Mr. Aspinall refreshes my memory who I met with in New York twice, and that's Hugh Keeley and Clyde Port, in the New York office of Mobil.

Q. Are you looking at the handwritten notes on there?

[122]

A. Yes.

Q. Is that your handwriting?

A. Yes.

Q. Who is this Charles Small?

A. I think he was—I'm not sure. I talked to Mobil in Australia. I talked to Shell, I believe, in Australia, and I talked to Shell in Western Samoa. I don't know which one he was. * * *

* * * * * * * *

[127]

Q. Weren't you at all times trying to get these oil companies to come in and build storage—

A. No, I was not.

* * * * * * * *

[153]

* * * * * * * *

A. As I told you before, I was in contact with the Shell in Australia and the Shell in Western Samoa. Now, I don't know where this fits, if I used the correct word, Asiatic Petroleum.

Q. Does that name mean anything to you, Mr. Galeon?

A. It sure as hell doesn't.

* * * * * * * *

[158]

A. I was working on every one of these deals by myself.

Q. How did they compare?

A. Compare with what?

Q. With each other. Mobil, Asiatic, and Summit.

A. All of them approached the same way. Lots of interest, we'll look into it. Back and forth, back and forth. And some of them died out and some of them said, "We can't compete."

* * * * * * * *

[182]

* * * * * * * *

Q. * * * Do you recall having a meeting with Starkist and Van Camp people jointly?

A. I do, at Van Camp.

* * * * * * * *

[183]

* * * * * * * *

Q. * * * Well, do you remember the discussion, what was said by whom or anything?

A. I remember Mr. Gillis was there. I remember it was over at Van Camp down in Wilmington or San Pedro, or wherever it is, in Long Beach.

* * * * * * * *

Q. What did you propose? Did you tell them about this, the deal that you had with Oceanic?

A. We were getting down now to the point where it was time for discussions and to choose up sides. "Will you go if the price is right?"

Q. What did they say? Did they say, "We aren't going to commit to you until after we get Standard to reduce the price?"

A. Frankly, they didn't say a word. They didn't say anything I could hang my hat on.

Q. Did you give them prices?

A. I don't remember.

* * * * * * * *

[194]

* * * * * * * *

Q. I'm going to show you two documents, Mr. Turnbull. They purport to be written by you on April 13, 1965. They are identical letters, except one is addressed to Mr. Pederson of Starkist and the other is addressed to Mr. Copeland.

I ask you if you recall writing and sending these letters on or about the date they bear, which is April 13, 1965.

A. Yes.

* * * * * * * *

[196]

* * * * * * * *

Q. Well, did you get a response from these people to your letter?

A. I haven't got one in my file.

* * * * * * * *

[201]

* * * * * * * *

Q. Now I'm going to show you the document marked DDX 133, and that is the letter from Mr. McCook to Governor Lee, dated August 13, 1965.

Do you recall this letter?

A. Yes.

Q. Did Mr. McCook write this letter with your approval?

A. Yes.

Q. And had he come into the picture as the one who was willing to finance the storage cost?

[202]

A. All the cost, yes.

* * * * * * * *

[205]

* * * * * * * *

Q. * * * In the last paragraph, Mr. McCook says: "It has been suggested by Starkist that Governor Lee act as a catalyst in the proposal."

A. That's true.

[206]

Q. Who was it, do you know, that suggested that?

A. Somebody that was at the meeting that we had had when Van Camp was available, or when Van Camp was present at a meeting that you referred to earlier, and also by Vince Evich of Starkist.

Q. Was the suggestion to you or to Mr. McCook?

A. Well, the suggestion was made to me that everything appear—that everything appeared to be good now. If Governor—if the governor can move fast on this thing, then let him, with the catalyst.

Q. What did you mean by that, "catalyst"?

A. Well, the governor was the supreme being, speaking in hyperbole, down there, and it was up to him to initiate this, "Let's do it now."

Q. To the canners—

A. To everybody that was involved in this operation.

* * * * * * * *

[211]

Q. * * * Did you write this letter [TU 76] to Mr. Shaw on or about August 25, '65?

A. Yes.

Q. In the first paragraph you refer to a meeting that had been set up with McCook and Governor Lee.

A. Yes.

Q. Did that meeting ever take place?

A. To my best recollection, no.

Q. Do you know why?

A. I do not.

Q. Did you make any inquiry or follow-up as to why it did not?

A. McCook was available, but I remember McCook telling me that it didn't take place.

* * * * * * * *

[215]

* * * * * * * *

Q. Was Summit the only one from whom you really had a proposal to offer Governor Lee?

A. All the majors—all the majors backed away, said they could not compete.

Q. Starting with UNOCO, then—

A. He was the only one that was eager to compete—

Q. Now, was—

A. —as an independent oil company.

* * * * * * * *

[216]

* * * * * * * *

Q. I have a document here that's numbered TU 073, and I don't know what it is. Maybe you can recognize it.

Q. This was one of the initial handwritten things which I typed up when Mr. Shaw was in my office in Beverly Hills, in which he penciled out a general profitability and payout, I think the — at the first meeting that I had in my office with Mr. Shaw.

* * * * * * * *

[220]

* * * * * * * *

CROSS EXAMINATION

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[225]

* * * * * * * *

Q. By Mr. Hollander: I show you a document that's been provided from the files of Mobil, marked M-18, and call your attention particularly to the last paragraph [Reference to Standard's supply contracts]. See if that refreshes your recollection of what any oil company gave you as a reason for not coming into the market with supply contracts.

[226]

A. I'm awfully—could you repeat that question? I was reading it.

(Whereupon the record was read.)

The Witness: Yes, both Shell and Mobil.

* * * * * * * *

Q. When Starkist and Van Camp talked to you about their requirements at American Samoa, did they also speak in terms of including the fishing fleet requirements?

[227]

A. Yes, that's the main thing.

* * * * * * * *

b. DEPOSITION: MARCH 23, 1971: WILLIAM R. McCOOK

United States District Court for the
Northern District of California

United States of America,
Plaintiff,
vs.
Standard Oil Company of California,
Defendant.

Civil No.
52334

* * * * * * * *

William R. McCook, called as a witness on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

* * * * * * * *

[4]

* * * * * * * *

Mr. Klitgaard: Do you wish to show Mr. Lynn's appearance for the witness? I take it you are appearing today for the witness, Mr. Lynn?

Mr. Lynn: Yes.

[5]

DIRECT EXAMINATION

By Mr. Klitgaard [Counsel for Standard]:

Q. Will you state your full name, please.

A. William Robert McCook.

* * * * * * * *

[28]

* * * * * * * *

Q. Did Mr. Turnbull from time to time send you copies of his correspondence from Governor Lee?

A. Yes.

Q. Did he send you copies of correspondence generally on this petroleum product distribution venture?

A. Yes.

Q. Did you discuss this with Mr. Turnbull from time to time?

A. Yes.

* * * * * * * *

[58]

* * * * * * * *

Q. Now, did Mr. Turnbull at any time have any discussions with you about actually refining petroleum products?

[86]

Q. What was Mr. Turnbull to receive for his efforts in the event you did put in a petroleum facility in American Samoa?

A. Well, that is a good question. It was really never discussed. Just that he would be compensated.

Q. By whom?

A. By me.

* * * * * * * *

[93]

* * * * * * * *

Q. Had you discussed the possibility of another company distributing petroleum products in American Samoa?

A. I just don't remember if we did or not.

Q. Was your plan of operation, Mr. McCook, to run the terminal yourself, to run the bulk plant facility?

A. Yes.

* * * * * * * *

[107]

* * * * * * * *

Q. Apart from the time you were in Samoa in February, 1964, did you have any meetings at all any time thereafter with any officials of the government of American Samoa or any representatives thereof concerning petroleum supply?

A. I doubt it. I don't think so. It's possible, but I don't think so.

Q. You have no independent recollection of any?

A. No.

* * * * * * * *

[117]

* * * * * * * *

Q. Directing your attention now, Mr. McCook, to a document previously marked DDX 133, which is a letter dated August 13, 1965, from William R. McCook to Governor H. Rex Lee, was this letter prepared by you?

A. Yes.

* * * * * * * *

[119]

* * * * * * * *

Q. Directing your attention to the third paragraph which says: "We have a firm commitment from Oceanic Petroleum Corporation of New York . . ." Do you see that statement?

A. Yes.

Q. Now, by Oceanic Petroleum Corporation were you referring to one of the Shaw enterprises?

A. I am sure I was, if those figures coincide. Do they?

Q. Yes.

Were the prices something that you took from this telegram the year before, June 12, 1964, or had you other price lists in between?

A. I am sure we had others. A year-old price list is not too valuable.

Q. Was this based on a current price list from Shaw?

A. Evidently it was. I am sure we wouldn't use a year-old one.

Q. In the reference to a firm commitment, did you mean a written contract already with Oceanic Petroleum?

A. Not necessarily a written contract, but evidently we had some sort of a commitment from them.

You have no copy of any commitment from Shaw?

Q. No.

A. You don't? Well, there is one around someplace.

Q. Did you have a commitment that was in writing; is that what you are telling us?

[120]

A. I thought so. Maybe it was verbal.

* * * * * * * *

Q. Now, was it your idea, as actually reflected in the letter here, to turn the whole facility back to the government?

A. That's correct.

Q. For $1 after 16 years?

A. That is correct.

Q. Was your lease to be 16 years?

A. 16 rather than six.

Q. A 16-year supply contract with the government?

A. No.

Q. Or a 16-year lease?

A. No, 16-year ground lease.

* * * * * * * *

[121]

* * * * * * * *

Q. In the bottom paragraph of this page you see the statement: "It has been suggested by 'Starkist' that you act as the catalyst in this proposal."

A. Yes.

Q. Now, does this refresh your recollection in any way that you had any discussions with Starkist personnel?

A. No, it doesn't, but we're getting warm.

[122]

Q. Well, how are you able to suggest then or mention that it was suggested by Starkist that Governor Lee act as the catalyst?

A. Through Ray, obviously.

Q. Did Mr. Turnbull tell you—

I assume "Ray" refers to Mr. Turnbull?

A. Yes.

Q. Did he tell you who had suggested this at Starkist?

A. No. He possibly did, but I don't remember.

• • • • • • • •

[125]

• • • • • • • •

Q. Directing your attention to a document previously marked as DDX 168—this is numbered TU-081 et seq, and appears to be some kind of a study or survey of the Samoan market—and I'll ask you to look through it. Have you seen this document before?

A. I'm sure I have, but I don't remember specifically, but it looks familiar.

• • • • • • • •

[128]

• • • • • • • •

Q. In your August 13th letter, DDX 133, the last page, you make the statement: "If the foregoing proposal is acceptable in principal, it is requested that a meeting be held"—referring to Governor Lee—"while you are still in the United States, for the purpose of discussing and finalizing arrangements and possibly executing a letter agreement between all interested parties."

Do you see that?

A. Yes.

[129]

Q. Did you contact Governor Lee after sending this letter or were you contacted by him?

A. No.

Q. Did you have any communications of any kind at all with Governor Lee after you sent this letter?

A. No, I never did.

• • • • • • • •

Q. Did you ever find out why Governor Lee didn't meet

[130]

with you?

A. No.

Q. Did Turnbull ever tell you why Governor Lee didn't meet with you?

A. No.

Q. Did you ever get any response to this letter from the governor?

A. I think I got a letter from him—no, I don't know if I did or not.

Q. Did you get a response from anyone connected with the government of American Samoa?

A. I don't remember if I did or not. It seems like something came in.

• • • • • • • •

Q. * * * You said in connection with this August 13th letter that it seemed to you that something came in. I am asking about your response. Do you recall what that was?

A. No, I don't.

Q. Was it a written document or writing of some kind, a letter?

A. I don't recall.

Q. Have you looked through your files to see if you have any response?

[131]

A. Yes.

Q. And you don't?

A. No, not that I can remember.

* * * * * * * *

[132]

* * * * * * * *

Q. Now, what happened after November 15, 1965? Did you make any further proposals to Governor Lee or to GAS for petroleum supply?

A. Do you have any records of it here?

Q. We have no documents past that date from you.

A. If they are not in these files, I evidently did not.

Q. Did Mr. Turnbull or anybody ever tell you what

[133]

happened to your proposal after this date of November 15th?

A. Of course they have.

Q. What happened?

A. Standard Oil lowered the prices and that was the end of our deal—below what we could deliver eventually.

* * * * * * * *

[134]

* * * * * * * *

Q. Was the only reason that you abandoned this is that Standard reduced the prices?

A. Because we were shot out of the saddle.

Q. Explain that.

A. We couldn't see any future. We couldn't sell it for as low a price as it appeared to be sold.

* * * * * * * *

[135]

* * * * * * * *

Q. If Standard was quoting 11.95, wasn't your price lower than Standard's?

A. What was it before that?

Q. It was 13.95.

A. It appears to me like we were fighting a losing battle because that was the first of what could have been several reductions in price. Obviously, I'm in no position to buck Standard Oil, and when Standard Oil reduced their price it did take a lot of sting out of it and evidently the governor might have had some pressure brought to bear. I don't know.

Q. Pressure by whom?

A. I have no idea, but obviously we weren't in a position to come in on a thin margin and then on a brand new venture have to maybe take another one or two price cuts.

Q. Was it your thought that you could get a long-term contract to supply the government power plant?

A. Yes.

* * * * * * * *

Q. At a specific price?

A. Yes.

Q. And so, therefore, you had that business; is that correct?

A. We would have had that.

Q. Was that business, in your opinion, sufficient

[136]

inducement for you to come into American Samoa?

A. Not quite.

Q. What other reasons?

A. It was the backbone. There was no doubt about that.

Q. In other words, if you got the power plant business, there would have been sufficient inducement for you to come into American Samoa?

A. We would want a fair shot at the rest of the business. If we had a fair shot at the rest of the business and the power plant, we certainly would have gone.

* * * * * * * *

[138]

CROSS EXAMINATION

By Mr. Hollander [Counsel for United States]:

* * * * * * * *

Q. If you had gotten a part of the market, as you suggested, do you think you could have made a profit on your investment?

* * * * * * * *

The Witness: Well, let me just say this, that had I gone ahead with the investment, I certainly would have done it with a profit in mind, and I do know that having just the fuel for the generating plant was not enough to get me too excited to go over there and make a big investment, having to face some

[139]

awful—what could be some price cuts and a price war when you are opening up a new business. It is not very inducive to a newcomer.

* * * * * * * *

c. DEPOSITION: JULY 24, 1970: H. REX LEE

* * * * * * * *

[707]

* * * * * * * *

Mr. Mussman [counsel for Standard]: Would you mark as DDX 133 a letter from one William R. McCook to Governor Lee, dated August 13, 1965, and identified as TU 079.

[710]

* * * * * * * *

Tell me what you know about Mr. McCook, the Oceanic Petroleum Corporation, and his proposal.

A. I know virtually nothing about him.

Q. Do you know why he wrote this to you?

A. At this point I do not. I may have known it at

[711]

the time. * * *

* * * * * * * *

It is my recollection that his name was mentioned in relation to Summit. I have no knowledge of either Mr. Shaw or of Oceanic other than what we have discussed in the last two days on the basis of documents that you have introduced.

Q. Do you know who Mr. McCook was?

A. No.

Q. Have you ever met Mr. McCook?

A. I don't recall meeting Mr. McCook. I could have. It is very possible.

* * * * * * * *

[712]

* * * * * * * *

Do you recall following up on Mr. McCook's letter at all or even replying to it?

A. No, I do not, although it is entirely possible that Mr. McCook could have come to see me in Washington while I was there. It is entirely possible that he did. I simply do not recall any meeting. I do not recall Mr. McCook, but this doesn't mean that it didn't take place. * * * I think I would have recalled him if he had something that I considered very seriously and practically.

[713]

* * * * * * * *

It is entirely possible that Mr. McCook or one of his representatives came to Washington while I was here and we had a brief discussion and after the discussion, washed the proposal out.

Q. Is it possible that Mr. McCook was fronting for Turnbull?

A. It is entirely possible, but I have no way of knowing, because, as I say, I do not recognize the name McCook.

* * * * * * * *

[714]

* * * * * * * *

Q. What I wanted to find out is whether you knew this at the time, that perhaps because of Mr. Turnbull's involvement that you would not have proceeded with Mr. McCook.

A. If I had known at that time, I think I would have discounted the possibility of this being a bona fide thing that we wanted to follow through on.

* * * * * * * *

Mr. McCook himself may have come down to Washington, I may have had a meeting, and because of what I told him, he may have withdrawn any interest in it. It is entirely possible. Other people have done that.

[715]

Q. You have no recollection one way or another of either replying or meeting [with McCook]?

A. No, sir.

* * * * * * * *

[750]

* * * * * * * *

Mr. Mussman: Keeping all of this in date order, the next * * * is a document bearing the designation TU 051,

which is a letter from Mr. Turnbull to Governor Lee, dated November 15, 1965. I ask that it be marked as DDX 138.

[751]

* * * * * * * *

Q. What was the purpose of this letter, Commissioner?

A. I don't know. I am not quite sure what he is asking here. He seems to imply that he has submitted an agreement on behalf of Summit, which we discussed yesterday and which I told you I could not recall any details on. I don't know what he is asking me here, unless he is saying that we have an outstanding offer of some kind to the Government of American Samoa.

Q. In the third paragraph he says:

> "Our agreement with Summit is in effect."

A. Yes, I don't know what his agreement with Summit is. I have no idea what his agreement with Summit was, if he, in [fact], had an agreement.

* * * * * * * * *

Q. Do you recall having any discussion with

[752]

respect to the matters discussed in this letter?

A. No, I do not.

* * * * * * * *

d. TRIAL TESTIMONY: JUNE 12-13, 1972: H. REX LEE

* * * * * * * * *

[317]

* * * * * * * *

Q. [By Counsel for Standard] You do not recall following up on this [Tu 46-47] at all?

A. No, I do not but again I do not want to foreclose the possibility that I did.

Mr. Turnbull was frequently referring people to me indicating that he had some kind of a deal worked out. People would make inquiry of me as to what the situation was.

Frequently their interest dropped after a brief discussion with me either by telephone or in person, and I just can't identify them individually. * * *

* * * * * * *

[388]

* * * * * * *

Q. * * * [D]id you not receive this proposal from Mr. McCook * * * which is [Tu 79-80]?

A. [Tu 79-80]? Uh-huh.

Q. Now, Mr. McCook was attracted to American Samoa by the efforts of Mr. Turnbull, was he not?

A. I do not know.

Q. You do not know?

A. I just do not recall Mr. McCook. I see there's a letter which I probably signed, but I don't—I don't

[389]

recall the details on it.

* * * * * * *

Q. Now, did you follow up on this proposal, Governor Lee, and have a meeting with Mr. McCook as he suggested in the last paragraph of the letter?

A. I simply do not recall whether I had a follow-up meeting with him or not. I may very well have. If I received a proposal of this kind, I would probably check it out. I may have discussed it with him on the phone. He may have come to Washington or Pago Pago to see me, but I just—I just do not recall it.

* * * * * * *

2. William R. McCook v. Standard Oil Company of California, et. al., United States District Court, Central District of California Civil No. 74 1190 HP

a. DEPOSITION: SEPTEMBER 23-24, 1975, FEBRUARY 11, 1976: WILLIAM R. McCOOK

United States District Court
Central District of California

WILLIAM R. MCCOOK, *Plaintiff,* vs. STANDARD OIL COMPANY OF CALIFORNIA, et al., *Defendants.*	No. CV 74 1190 HP

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[3]

WILLIAM R. McCOOK,

having been duly sworn, testified as follows:

EXAMINATION

BY MR. KLITGAARD:

Q. Will you state your full name, please.

A. William Robert McCook.

* * * * * * *

Q. Are you the plaintiff in the lawsuit entitled William R. McCook versus Standard Oil Company, et al.?

A. Yes.

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[4]

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Q. In connection with this deposition, Mr. McCook, the Defendant Standard Oil Company of California has served upon you and your attorneys a Second Request for Production of Documents. This Second Request for Production of Document is dated August 18, 1975, and it requested

[5]

documents in various individual categories to be brought to the deposition room here today. * * * Do you have the Request for Production of Documents in front of you, Mr. McCook?

A. Yes.

* * * * * * * *

Q. Have you brought documents today to the deposition which fit the categories described in this request?

A. Yes.

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[7]

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Q. Directing your attention to Paragraph 2, you see the definition of "Documents" as used here includes ". . . all documents described above in the possession or under the control of the deponent, or of his partners, associates, employees, agents, experts, attorneys or representatives, whether or not prepared over the signature of the deponent or any of the above persons."

Do you see that definition?

A. Yes.

Q. In connection with producing your documents today which we have numbered SDX 92 to SDX 429, have you produced all the documents which come within this category described in Paragraph 2 except the documents on which you may claim privilege?

A. Yes.

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[10]

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Mr. Palmieri: Yes, as far as we know. Since the Notice refers to documents which may be in the control of an agent, we, of course, obtained documents from Mr. Turnbull. We just collected all of the documents.

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[11]

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Q. * * * In producing the documents today that have been marked 92 to 429, have you made an effort to collect these documents to the extent that they exist from any of these people just described, partners, associates, and so forth?

[12]

A. Yes.

Q. And as far as you know, are all the documents in the possession of any of these other people here today and marked within this set, 92 to 429?

A. As far as I know, you have all of them there.

Mr. Palmieri: I think the only possible reason for hesitancy might arise from the fact that there was probably a case and maybe some documents went to the Justice Department, and maybe Mr. Turnbull didn't get those back, but if there are documents which exist that relate to the subject matter of this case or deposition, we certainly don't know about them. We made a diligent search to collect all of the documents and they are all here as far as we know.

* * * * * * * *

Mr. Klitgaard: Q. And did you contact Mr. Lynn to ask him if he had any documents in response to this Second Request for Production of Documents?

A. Yes.

Q. Did he provide you with any documents?

A. He turned over all his documents earlier.

Q. He told you he had already turned them over to

[13]

you?

A. Yes.

Q. Did he turn them over to you or to your attorneys?

A. To the attorneys.

* * * * * * * *

[14]

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Q. * * * [D]id you make any inquiry or investigation into your own office files or personal files to see if there were documents responsive to the Request for Production?

A. Yes, I did.

* * * * * * * *

Q. Where were those files located that you looked into?

A. In the storage file in my garage.

Q. Is that at your home that we just described?

A. Yes.

Q. Were those documents in a four-drawer file cabinet?

A. Two-drawer fire file.

Q. * * * [W]ere the documents always in this storage file or were they taken from some other file at some other time and put into this storage file?

A. They were taken from my office, the old address in La Mirada some time back. I don't recall exactly, but

[15]

several years ago.

Q. What was that address?

A. 14400 East Firestone Boulevard, La Mirada, California.

* * * * * * * *

[16]

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When I sold my business, I moved a lot of personal files to that storage file in the garage.

Q. When did you sell your business?

A. 1968.

Q. Were the documents that we have had produced today moved from the office in about 1968 to your garage and put in a file cabinet?

A. Thereabouts.

Q. Have these documents been in that file cabinet ever since 1968?

A. Yes.

Q. Referring to the file cabinet in your garage?

A. Yes.

* * * * * * * *

Q. Would it have been possible for documents that came in concerning American Samoa to be placed in another

[17]

file or files in your office at East Firestone Boulevard?

A. It would be possible if they were misfiled.

Q. Have you made any search of the files at any time at the old address on East Firestone Boulevard to see if there were any documents that were misfiled that related to American Samoa?

A. When we moved within the last month, I went through all the rest of my files and scanned through and didn't see anything that pertained to Samoa.

Q. When you moved in 1968?

A. No. When we moved recently from La Mirada to Lynwood. That was a month ago.

* * * * * * * *

[19]

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Q. In other words, the four-drawer file cabinet at the East Firestone Boulevard address contained all correspondence, documents, written materials that did not refer to the advertising business?

A. Correct.

* * * * * * * *

[20]

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Q. Would you tell us what documents you cleaned out of the file in East Firestone Boulevard and brought to your two-drawer file at your home.

A. All of those documents pertaining to Samoa I moved to my home.

* * * * * * * *

Q. When you cleaned out the materials of the file at [21] the Firestone Boulevard office in the late 1960s and moved the materials, at least some of the materials to the file at your garage, did you leave the four-drawer file cabinet behind at the East Firestone Boulevard address?

A. I did.

* * * * * * * *

Q. Did you have occasion at any time after you transferred the Samoa documents from the four-drawer file at East Firestone Boulevard to the two-drawer file at your garage to check back into the four-drawer file at East Firestone Boulevard to see if there were any documents responsive to the call of the Second Request of Production of Documents?

A. Yes, I have.

Q. When did you do that?

A. On several occasions.

* * * * * * * *

[22]

* * * * * * * *

Q. Do you recall the Government suit brought against Standard, the one referred to a few minutes ago?

A. Yes, I do.

Q. In connection with that Government suit, did you or someone acting for you go back and look at the file at the La Mirada office, that is, the East Firestone office to see if there were any documents in there concerning American Samoa?

A. Yes, I did.

* * * * * * * *

Q. Did you find any documents at that time in the file drawer?

A. None.

[23]

Q. In your four-drawer file?

A. No.

* * * * * * * *

Q. After the search that you described a moment ago concerning the four-drawer file cabinet * * *, have you had occasions to look into the four-drawer file cabinet to see if there were documents responsive to the descriptions here in our Second Request for Production?

A. I have.

Q. When did you do that?

A. That would have been at about the beginning of this suit.

Q. About 1974?

A. I would say during that period.

Q. At that time was the four-drawer file cabinet still located in the office at East Firestone Boulevard?

A. It was.

Q. Did you find any documents in the file at that time concerning American Samoa?

A. Again, no.

* * * * * * * *

[24]

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Q. In the last month or so, has Ryan Consolidated Petroleum moved its office from East Firestone Boulevard to Wright Road in Lynwood?

A. Yes.

Q. And in connection with that move, did you have occasion to go through the documents in the four-drawer file?

A. Thoroughly.

* * * * * * * *

Q. When did you go through the file, the four-drawer file, this last time? Was it a month ago?

A. Within a month.

Q. Within the last month?

A. Yes.

Q. After the Second Request for production had been served upon you?

A. Yes.

Q. And you did not find anything in the file at that time that was responsive?

A. Nothing else.

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[26]

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Q. Did Mr. Lynn ever go into the four-drawer file cabinet at the East Firestone Boulevard address, either before you cleaned out the file and transferred the American Samoa files to your garage or after, to the present time?

A. Never.

Q. Mr. Lynn never physically went to the four-drawer file cabinet to make any search of the files for documents concerning American Samoa?

A. No way.

Q. Why do you say, "No way"?

A. Well, I just wouldn't allow it. That is all. No one gets into my files.

Q. Was there a lock to the four-drawer file cabinet?

A. Yes.

Q. Who had the key to the four-drawer file cabinet?

A. In the secretary's drawer.

* * * * * * * *

Q. Mr. McCook, did your secretary have instructions not to let anybody else into that file apart from yourself?

A. Not specific instructions. However, she would

[27]

never allow it.

Q. Why do you say she would "never allow it"?

A. They were my personal files; just goes without saying that you don't let any outsider, even your mother, into your personal files.

* * * * * * * *

Q. And we are covering now the period roughly 1960 until the date the files were moved this last month?

A. That is correct.

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[28]

* * * * * * * *

Q. Did Mr. Lynn ever go through the two-drawer file cabinet in your garage to look for documents for American Samoa?

A. Never.

Q. Did anyone acting for Mr. Lynn ever go through the two-drawer file cabinet in your garage looking for documents for American Samoa?

A. No.

* * * * * * * *

[32]

* * * * * * * *

Q. * * * Mr. McCook, the documents which you produced today came from the two-drawer file cabinet that you maintained in your garage; is that correct?

A. That is correct.

Q. By "came," I mean originated in those files and maybe passed through your attorney and then came to us?

A. That is correct.

Mr. Palmieri: Except for those that we have gotten from Mr. Turnbull.

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[33]

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Q. In the Government suit, did you at any time have any communication with Mr. Hollander or representatives of the Department of Justice concerning any files that he might have which related to American Samoa?

A. I can't remember whether it came through Mr. Hollander directly or through Mr. Lynn. I believe it was through Mr. Lynn. I know I had never met Mr. Hollander until the date I met you at Mr. Lynn's office in Newport Beach.

Q. That was the day your deposition was taken in the Government case?

A. Right.

Q. And had you ever talked to Mr. Hollander before that date?

A. I may have. Frankly, I don't recall.

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[34]

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Q. Did you take documents from the two-drawer file cabinet in your garage and send them to Mr. Lynn?

A. Yes, I did.

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[35]

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Q. In delivering the files to Mr. Lynn, did you make a list of the documents that were in the files that you had delivered to Mr. Lynn, or did you just give Mr. Lynn the entire file relating to American Samoa?

A. I gave him the entire file.

Q. In other words, did you just physically extract the four or five folders involving American Samoa and bring them to Mr. Lynn?

A. Yes, I did.

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[36]

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Q. What did Mr. Lynn tell you that he wanted?

A. I think it was a request very similar to this.

Q. To this Second Request for Production?

A. Yes.

Q. Did he tell you that he wanted your documents concerning American Samoa and petroleum supply in American Samoa?

A. Yes.

[38]

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Q. Were you satisfied at the time you went into your files in the Government case you had withdrawn everything involving American Samoa from those files involving the petroleum business in American Samoa and delivered that to Mr. Lynn?

A. At that time I don't know whether I was satisfied or not, but I delivered all that I had.

Q. From that time to the present have you found any documents in your files that you did not deliver to Mr. Lynn that related to the petroleum business in American Samoa?

A. I don't think so.

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[39]

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Q. In other words, you delivered the documents to Mr. Lynn, he photocopied them, kept the photocopies, and returned the copies back to you?

A. I think that is exactly the way it happened. I know I got my documents back again.

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[40]

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Q. Did Mr. Lynn ever tell you at any time what he did with the copies of the documents that he had?

A. No. The subject never came up.

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[84]

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Q. I am going to hand you Document 92 and ask you to take a look at that document. Do you have 92 in front of you, Mr. McCook?

A. Yes.

Q. Document 92 is a plat or map that bears a date of 1-12-63 and which appears to have been prepared by the Government of American Samoa, Land and Survey Division; is that correct?

[85]

A. Yes.

* * * * * * * *

Q. Apart from the preparation for your deposition, have you seen a copy of this document at any time before today?

A. Many times.

Q. Was this one of the documents that was in your files?

A. I don't know if it was in my file or not, but I have seen it before.

Q. Where did you see it before? In other words, in whose possession?

A. It was either in Ray Turnbull's possession or mine. I may have had it or he may have had it. We both probably had it at one time or another because it is a pretty important document in what we were attempting to do.

Q. What do you mean by "a pretty important document"?

A. It pretty well laid out our plans for putting in our facilities in American Samoa.

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[90]

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Q. * * * Mr. McCook, I am going to hand you a document which has been marked SDX 101 and 102. 101 and 102 appear to be a list of petroleum products shipped into Pago Pago, American Samoa during two preceding years, and the period appears to be July 1, 1960 to June 30, 1961 and July 1, 1961 to June 30, 1962. Is that a fair description of the document?

A. Yes.

* * * * * * * *

Q. Have you seen either of these documents before today?

A. Yes, I am sure I have.

Q. When did you first see these documents?

A. That I couldn't tell you.

* * * * * * * *

[91]

Q. Was it during the period that you were discussing American Samoa with Mr. Turnbull?

A. Yes.

Q. Were these two documents here, 101 and 102, among the documents that you had in your two-drawer file?

A. I don't believe so. I think these must have been out of Ray's file, again.

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[124]

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Q. I would like to hand you a letter marked 137 which is a letter dated January 28, 1964 from Ross W. Moody to Raymond C. Turnbull. Do you have this letter in front of you?

A. Yes.

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[125]

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Q. * * * you will see that this letter refers to a pier or a dock for American Samoa, does it not?

A. Yes.

Q. And again is this one of the subjects you discussed with Mr. Turnbull in connection with your plan to supply American Samoa?

A. Yes.

* * * * * * * *

[166]

* * * * * * * *

Q. I would like to hand you a document marked 177 which is entitled "Tanks for petroleum, American Samoa." This appears to be a typewritten original of a document, does it not?

A. Yes.

Q. Have you seen a copy of this document before yesterday or today?

A. Probably.

* * * * * * * *

Q. Do you recall whether you saw the document in connection with discussions with Mr. Turnbull?

A. That would be where I would have seen it.

Q. This document refers to tanks for petroleum in American Samoa. Would you have this document in connection with discussions with Mr. Turnbull concerning the construction of petroleum storage tanks?

A. Yes.

* * * * * * * *

[167]

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Q. Did you have discussions with Mr. Turnbull concerning the cost of petroleum storage tanks in American Samoa?

A. Yes.

Q. Was the cost of petroleum storage facilities in American Samoa one of the factors you considered in putting together your letter of August 13, 1965 to Governor Lee?

[168]

A. Yes.

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[182]

(Whereupon, at 9:00 o'clock A.M., Wednesday, September 24, 1975, the deposition of WILLIAM R. McCOOK was resumed. • • •)

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WILLIAM R. McCOOK

having been previously duly sworn testified further as follows:

EXAMINATION (Resumed)

By Mr. Klitgaard:

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[230]

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Q. Does Mr. Turnbull have any interest in the recovery that you may obtain, if any, from Standard in the present case?

A. I certainly intend to take care of him. He has done a lot of work as you can see. He has done a major amount

of legwork in both the beginning and this lawsuit. He will be well compensated, let me put it that way, if there is a settlement or a victory on our team.

Q. Or judgment for you?

A. Yes.

Q. In connection with Mr. Turnbull's acting as your legman in connection with the present suit, has he been acting as your legman for the preparation for the present claim against Standard, 1968 or 1969 to date?

A. Whenever that happened, yes.

[231]

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Q. Were you aware at any time in 1968 or 1969 that Mr. Turnbull had been talking to representatives of the Department of Justice regarding Samoa?

A. Yes.

Q. And he had given documents to the Department?

A. Yes.

Q. Was he acting again on your behalf about a possible claim against Standard?

A. Yes.

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[232]

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Q. In the period before Standard Oil was handed a judgment, Mr. Turnbull contacted, apparently, Mr. Winton and Mr. Lynn concerning a possible claim against Standard, do

[233]

you recall that?

A. Yes.

Q. Was he acting on your behalf in that connection?

A. Yes, he was.

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[239]

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Q. I would like to hand you now, Mr. McCook, a two-page document numbered 216 and 217 which is a letter dated April 7, 1965 from Turnbull to Governor Lee. Have you seen a copy of this at any time before two days ago?

A. Quite possibly I have.

[240]

Q. Do you recall when the first time was you saw this document?

A. No, but I would imagine the early part of 1965.

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[241]

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Q. Was Document No. 216, 217 among the documents in your two-drawer file cabinet in your garage?

A. It is possible it was. I am not certain.

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[245]

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Q. I would like to hand you now, Mr. McCook, a copy of a letter dated June 15, 1965 which is a letter from Mr. Turnbull to Mr. Shaw. Do you have this letter in front of you?

A. Yes.

Q. Have you seen a copy of this document before?

A. Yes.

Q. When was the first time you saw this document?

A. Back in 1965.

Q. Who showed you this document for the first time?

[246]

A. Mr. Turnbull.

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[251]

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Q. I am going to hand you now, Mr. McCook, a Document No. 227 which is a tissue paper letter signed by Mr. J. T. Shaw dated June 25, 1965, Shaw to Turnbull. Do you have this letter in front of you?

A. Yes.

Q. Have you seen a copy of Document 227 before today?

A. Yes.

Q. When was the first time you saw this document?

[252]

A. Most likely around the end of June 1965.

Q. Who showed you the document for the first time?

A. Ray Turnbull.

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[257]

Q. Let me hand you a Document No. 230, a letter dated August 4, 1965 from J. T. Shaw to you. Do you have this letter in front of you?

A. Yes.

* * * * * * * *

Q. Have you seen a copy of this letter or have you seen this letter before today?

A. Yes.

Q. When did you first see this letter?

A. Probably right after, a few days after August 4 when it was mailed to me.

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[264]

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Q. And was this Document 230, 231 one of the documents that you delivered to Mr. Lynn?

A. Undoubtedly I did.

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[271]

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Q. Was there a consideration given by you or by Mr. Turnbull or by anyone, to your knowledge, to supplying American Samoa out of Colon, Panama in connection with your venture?

A. There may have been a consideration at one time. We looked for several sources.

Q. Do you recall that Colon, Panama was one of the sources you looked for?

A. I recall the name but no details about it.

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[314]

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Q. I would like to ask you again, Mr. McCook, to take a look at Document No. 237 and 238. Do you have that in front of you?

A. Yes.

Q. This is the draft, right, of your proposal [dated August 13, 1965]?

A. Yes.

Q. Was this one of the documents that was in your two-drawer file cabinet?

A. It could have been; probably was.

Q. Was it one of the documents you delivered to Mr. Lynn?

A. Probably. If it was in my file, I delivered it to him.

* * * * * * * *

Q. If the draft was not in your file, would the only other place that it would have been be the file of Mr. Turnbull?

A. Yes.

[315]

Q. Directing your attention to 239, 240, I will ask if this is a copy of a document that was in your two-drawer file in your garage?

A. Yes.

Q. Was that a copy of a document you delivered to Mr. Lynn?

A. Yes.

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[321]

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Q. I would like to hand you now, Mr. McCook, a yellow piece of paper marked Document 246 and dated October 5, 1965. Do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. And this was a letter dated October 5, 1965 from you to Governor Lee; correct?

A. Yes.

Q. And dictated by you?

A. Yes.

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[322]

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Q. In the next sentence you state, "I just wanted to drop you a note to let you know that I have the balance of the information we discussed on the telephone, covering our supplier's financial strength."

Do you see that?

A. Yes.

Q. Does this refresh your recollection that you had a conversation with Governor Lee sometime after the August 13, 1965 letter?

A. It certainly does. I don't remember it, though. That is frightening. I am not used to talking to Governors and not remembering it.

Q. Does it help you when you refer to "the balance of the information we discussed on the telephone"?

A. I remember the information, the financial statements that I sent along.

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[323]

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Q. Was Governor Lee making any inquiry regarding the financial strength of Mr. Shaw and his enterprises?

A. Evidently, he was.

Q. And what was the "balance of the information" that you referred to here in your letter?

A. It must have been his financial statement.

* * * * * * * *

Q. We didn't find any documents in the documents produced * * * in connection with this Second Request for Production of Documents where there is a transmittal of information to Governor Lee concerning the financial strength.

A. This must have been it. However, I don't see an enclosure on the copy of the letter. No, I didn't enclose it; that is right.

* * * * * * * *

Q. Did you send information on your supplier's financial strength to Governor Lee at a later date, do you

[324]

recall?

A. I don't recall.

* * * * * * * *

[335]

Q. Was Document No. 246 among the documents in your two-drawer file cabinet in your garage?

A. Yes.

Q. Was it one of the documents you delivered to Mr. Lynn?

A. Yes.

* * * * * * * *

Q. I would like to direct your attention now, Mr. McCook, to Document No. 247 which is a letter dated November 16, 1965 from the Governor of American Samoa, H. Rex Lee, to you. Do you have this document in front of you?

A. Yes.

Q. Document No. 247 is a signed original, is it not?

A. Yes.

* * * * * * * *

Q. When did you first see this document?

A. As soon as I received it in the mail, probably around November 20th.

Q. 1965?

A. Yes.

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[346]

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Q. Do you see in the upper left-hand corner "Tell Ray and file"?

A. Yes.

Q. Is that your handwriting?

A. Yes.

Q. Did you in fact tell Mr. Turnbull about this letter from Governor Lee?

[347]

A. I am sure I did.

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[349]

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Q. Mr. McCook, was Document No. 247 among the documents in your two-drawer file cabinet?

A. Yes.

Q. Was it a document that you delivered to Mr. Lynn?

A. Yes.

* * * * * * * *

A. * * * I may not have delivered this to Mr. Lynn.

Q. Do you know why you didn't deliver it to Mr. Lynn?

A. I don't think I found it until after the Federal case.

Q. Until after the Federal case began?

A. Yes.

Q. When did you find this document?

A. I am not sure, but I don't believe—I am sure it would have been used as an exhibit if it were.

Q. * * * Is it your recollection that the document was in the two-drawer file cabinet in your garage?

A. I think it could have been one of the misfiled ones.

Q. Did you find this document in a four-drawer file cabinet that you had in your old office?

A. Yes, I did.

Q. When did you find it in the four-drawer file cabinet?

[350]

A. Several months ago.

Q. Within this last year?

A. Within a year or two, yes.

* * * * * * * *

Q. After your deposition was taken in the Government case, did anyone go back and look in your four-drawer file cabinet to find out if you had any documents in there concerning American Samoa?

A. Yes. I did.

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Q. A year after?

A. Yes, probably a year after.

Q. In other words, it was a year after your deposition?

A. I would just guess in that period of time.

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[351]

Q. And then did you find this document in your file cabinet at that time?

A. I believe so.

Q. What did you do when you found the document in your file cabinet? Did you send it to somebody?

A. Yes. I gave it to Kindel & Anderson.

* * * * * * * *

Mr. Klitgaard: Q. You found it at the East Firestone Boulevard address before you changed offices?

A. I think so. I am not positive on that, where I found it. I think it was in that four-drawer file.

Q. In any event in the time sequence you found it in the four-drawer file cabinet, it was at least a year, or about a year, after your deposition?

A. Approximately, yes.

Q. Do you recall your deposition was taken in March of 1971 in the Government case?

A. Maybe two years after, even.

Q. You found it two years after?

A. It could have been.

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[352]

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Q. What was the occasion for the search that turned up this document in your file cabinet?

A. Just in gathering more evidence for our case.

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[369]

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Q. Have you seen Document No. 276 through 296 before?

A. Yes.

Q. This appears to be a complete set, does it not, of the Partial Survey?

A. Yes.

Q. On Page 276 there is some handwritten notations. Do you see that?

A. Yes.

Q. Have you seen this handwriting before?

A. Many times. It is mine.

Q. All the handwriting on 276?

A. Yes.

* * * * * * * *

[370]

* * * * * * * *

Q. I would like to ask you to direct your attention to the first page, 276, which has the reference to Governor Lee, area code 212 and then there appears to be a

[371]

telephone number. Do you recall how you came to put that handwriting on the document?

A. Evidently, it was his phone number when he was in New York. That is a New York area code.

Q. Do you recall making a telephone call to Governor Lee at that number?

A. I vaguely recall it. I have no idea what the conversation was. I would have to do a little concentrating.

* * * * * * * *

[385]

* * * * * * * *

Q. Was Document No. 276 through 296 among the documents that you had in your two-drawer or four-drawer file?

A. Yes.

Q. Was it among the documents you delivered to Mr. Lynn?

A. Yes.

* * * * * * * *

[387]

* * * * * * * *

Q. How many documents did you discover in your [four-drawer] file cabinet when you made your later search?

A. Two or three.

Q. Single-page documents?

A. I don't recall what they were. They were just some information that I thought may have been pertinent to this case.

* * * * * * * *

[388]

* * * * * * * *

Q. If anyone had made a thorough search of the four-drawer cabinet, would they have discovered these documents in the "Miscellaneous File," the ones you discovered a couple of years ago?

A. Yes.

* * * * * * * *

[390]

* * * * * * * *

Q. I would like to hand you now, Mr. McCook, a copy of a document numbered 320, 321, and 322. Do you have these [391] documents in front of you, Mr. McCook?

A. Yes, I do.

• • • • • • • •

Q. Is the handwriting on 321 your handwriting?

A. The penciled writing is mine.

Q. That would be the penciled writing at the bottom?

A. Yes.

• • • • • • • •

[392]

• • • • • • • •

Q. When did you first see Document 321, Mr. McCook?

A. I am not sure when I did see that.

Q. Who prepared Document 321?

A. I would assume Ray Turnbull.

Q. Would anybody else have prepared it?

A. Not that I know of.

Q. Was 321 prepared before your August 13, 1965 letter to Governor Lee?

A. I would imagine so. It reads like it was.

Q. Why do you say that?

A. Because it is a pretty preliminary-type thing. That's the way it looks to me.

Q. You mean the matters referred to on Page 321 are of a preliminary nature concerning American Samoa Terminal?

A. Yes.

• • • • • • • •

[393]

• • • • • • • •

Q. Directing your attention to 321 which is the typewritten original, was this one of the documents in your two- or four-drawer files?

A. I would imagine it was.

Q. Was this one of the documents you delivered to Mr. Lynn?

A. Yes.

• • • • • • • •

[394]

• • • • • • • •

Q. And do you remember in the letter from Mr. Turnbull to Mr. Shaw of August 25th [1965] there was a reference to the fish companies being ready and waiting for Governor Lee?

A. Yes.

Q. Now, does that refresh your recollection as to when Document 321 was prepared?

A. No, it doesn't. It must have been around that time, however.

• • • • • • • •

[415]

• • • • • • • •

Q. * * * [D]o you recall earlier that you said you went [416] through your miscellaneous file in the four-drawer file cabinet and found some additional documents which might be helpful in connection with your present suit?

A. Yes.

• • • • • • • •

Q. Do you recall that one of those documents might have been the letter of November 15th from Governor Lee to you or November 16th, do you recall that?

A. Yes.

* * * * * * * *

Q. Will you look back at Document 246 which is your October 5th letter to Governor Lee. Do you have that in front of you?

A. Yes.

Q. Was this one of the letters that you discovered in your later file search of your four-drawer cabinet?

A. This particular document?

Q. Yes.

A. No.

* * * * * * * *

[424]

* * * * * * * *

Q. But between the time of October 29, 1969 and the date of your deposition in the Government case, which was March 1971, did Mr. Turnbull tell you that he had provided documents to the Department of Justice?

A. I can't be sure if he told me that or not.

Q. Were you aware of that, TU 1 through 100?

A. We certainly did all we could to help them. I will have to admit that.

Q. Documents TU 1 through 100 were provided to the Department of Justice; isn't that correct?

A. By Mr. Turnbull and myself.

Q. Did you provide them directly yourself to the Department of Justice?

A. No.

* * * * * * * *

Q. Did you bring some of these documents to Mr. Lynn and provide them indirectly?

A. That could have been. I provided my documents to Mr. Lynn, my attorney.

Q. Was it your understanding that these documents were going to be provided to the Department of Justice at that time along with whatever other purpose Mr. Lynn might

[425]

have for them?

A. Whether they were actually being provided, given to him, I don't recall exactly, but I know they were for their examination and use, if need be.

Q. By "their," you mean the Department of Justice?

A. Yes.

* * * * * * * *

[February 11, 1976] [448]

WILLIAM R. McCOOK,

having been previously duly sworn, testified further as follows:

EXAMINATION (Resumed)

By Mr. Klitgaard:

Q. This is a continuation of your prior deposition, Mr. McCook, on the subject of the production of documents in the present case.

You recall that you are under oath?

A. I do.

* * * * * * * *

[513]

Q. I would like to hand you Document 1243-1297, which is a copy of the post-trial brief for the United States in the Government case, and which was produced by Mr. Turnbull. Do you have that in front of you?

A. Yes.

* * * * * * * *

[514]

Mr. Klitgaard: Q. Mr. McCook, do you have page [SDX] 907 in front of you?

A. Uh-huh.

Q. Do you see the question here beginning at page 13 [SDX 907], referring to paragraph 1 of the subpoena? Do you see that, line 13, page 907?

A. Yes.

* * * * * * *

[574]

* * * * * * *

Q. Then the next question:

> "Q. And you have retained none of those documents that fit that description at this time?
>
> "A. To my knowledge, I have given him my file, unless there might be a few miscellaneous things that may be filed elsewhere.
>
> "Q. Have you taken a look in the files to see if there are documents?
>
> "A. No.
>
> "Q. Where are those files?
>
> "A. It would be miscellaneous correspondence files. They would be in my office."

[575]

Do you see that?

A. Yes.

Mr. Klitgaard: Then Mr. Lynn comes in and makes his statement about looking in the files. As Mr. Lynn states:

> "I think it is fair to state that I made more than a cursory examination of Mr. McCook's files recently, that is, within the last ten days, and I could find nothing in addition to that which had already been delivered here.
>
> "Mr. Klitgaard: You are referring to the files at his office?

> "Mr. Lynn: I am referring to the single four-drawer file which is in his office and contains a myriad of subfiles, and I went through each one individually."

Do you see that?

A. Yes.

Q. Now—

* * * * * * *

That is where the missing documents were?

A. Yes, they were under the miscellaneous correspondence files.

Q. And if he looked in those files, he would have found them?

A. That's correct.

[576]

Q. Directing your attention, now, Mr. McCook—

* * * * * * *

The Witness: * * * [W]e got to the point it would have been in miscellaneous correspondence in my office, and then evidently Lynn started talking and said what he had done and gone through all my files. So that is impossible.

Mr. Klitgaard: Q. Because if he had gone through them, he would have found the missing documents?

A. That's correct.

* * * * * * *

[583]

* * * * * * *

Q. Did Mr. Lynn ever discuss with you the content of Document 951-955?

A. Quite probably he did, but I didn't see the original.

Q. When you say "Quite possibly," are you saying that you have some recollection of him having discussed the content with you?

A. Well, I have a recollection of Mr. Lynn

[584]

questioning me continuously if I had any other documents, which I searched and researched and researched and never came up with any.

Q. These would be any other documents than the ones you turned over to Mr. Lynn in the beginning?

A. That's right, with the exception of those two when I was cleaning out my miscellaneous file.

Q. When you say "two" that you were cleaning out your miscellaneous file, are you referring to Document 247?

A. Yes.

Q. And are you referring to Document 320?

A. Yes.

Mr. Palmieri: What's 320?

The Witness: 246.

Mr. Klitgaard: Q. In your prior testimony, Mr. McCook, you stated that Document 246 was not among the new documents you discovered in the four-drawer file. I will go back to your deposition in September and read you your testimony concerning Document 246.

* * * * * * *

A. Those are the two I found.

Q. Let me go back and read your testimony so you can be sure of what you are testifying to now. I would like to direct your attention to page 416 of your deposition on September 24, 1975 at line 15 to line 23. Line 15:

[585]

> "Q. Will you look back at Document 246, which is your October 5 letter to Governor Lee? Do you have that in front of you?
>
> "A. Yes.
>
> "Q. Was this one of the letters you discovered in your later search of your four-drawer cabinet?

> "A. This particular document?
>
> "Q. Yes.
>
> "A. No."

The Witness: No, that's not right.

Mr. Klitgaard: Do you wish to change your testimony now, Mr. McCook?

Mr. Palmieri: Assuming that that is his testimony. He is saying that that wasn't his testimony.

* * * * * * *

The Witness: I found two documents. That is one of them.

Mr. Klitgaard: Q. What is "that"?

A. 246 and 247 were the only two I found.

Q. Is it your testimony now, sir, at the present time, that you found Document 246 in your four-drawer file cabinet?

A. Under miscellaneous correspondence.

Q. And —

A. That's correct.

* * * * * * *

[587]

* * * * * * *

The Witness: I recall I was shocked, and elated or—not—when I found these two.

[588]

Mr. Klitgaard: Q. Why were you shocked, Mr. McCook?

A. That they turned up in an odd spot, and there they were after all this search for files.

Q. Didn't they turn up in a file that Mr. Lynn said he had looked through?

A. Well, Mr. Lynn is wrong. He did not go through my miscellaneous correspondence file.

A. Well, I have a recollection of Mr. Lynn

[584]

questioning me continuously if I had any other documents, which I searched and researched and researched and never came up with any.

Q. These would be any other documents than the ones you turned over to Mr. Lynn in the beginning?

A. That's right, with the exception of those two when I was cleaning out my miscellaneous file.

Q. When you say "two" that you were cleaning out your miscellaneous file, are you referring to Document 247?

A. Yes.

Q. And are you referring to Document 320?

A. Yes.

Mr. Palmieri: What's 320?

The Witness: 246.

Mr. Klitgaard: Q. In your prior testimony, Mr. McCook, you stated that Document 246 was not among the new documents you discovered in the four-drawer file. I will go back to your deposition in September and read you your testimony concerning Document 246.

* * * * * * * *

A. Those are the two I found.

Q. Let me go back and read your testimony so you can be sure of what you are testifying to now. I would like to direct your attention to page 416 of your deposition on September 24, 1975 at line 15 to line 23. Line 15:

[585]

> "Q. Will you look back at Document 246, which is your October 5 letter to Governor Lee? Do you have that in front of you?
>
> "A. Yes.
>
> "Q. Was this one of the letters you discovered in your later search of your four-drawer cabinet?
>
> "A. This particular document?
>
> "Q. Yes.
>
> "A. No."

The Witness: No, that's not right.

Mr. Klitgaard: Do you wish to change your testimony now, Mr. McCook?

Mr. Palmieri: Assuming that that is his testimony. He is saying that that wasn't his testimony.

* * * * * * * *

The Witness: I found two documents. That is one of them.

Mr. Klitgaard: Q. What is "that"?

A. 246 and 247 were the only two I found.

Q. Is it your testimony now, sir, at the present time, that you found Document 246 in your four-drawer file cabinet?

A. Under miscellaneous correspondence.

Q. And—

A. That's correct.

* * * * * * * *

[587]

* * * * * * * *

The Witness: I recall I was shocked, and elated or—not—when I found these two.

[588]

Mr. Klitgaard: Q. Why were you shocked, Mr. McCook?

A. That they turned up in an odd spot, and there they were after all this search for files.

Q. Didn't they turn up in a file that Mr. Lynn said he had looked through?

A. Well, Mr. Lynn is wrong. He did not go through my miscellaneous correspondence file.

* * * * * * * *

[592]

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[601]

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Q. Was Document 321 among the documents that you discovered in your four-drawer file cabinet along with 247?

A. No.

* * * * * * * *

Q. I would like to show you now Document 276-296. Do you have that document in front of you?

[602]

* * * * * * * *

Q. Was 276-296 one of the documents you found in the miscellaneous file in your four-drawer file cabinet along with 247?

A. No.

* * * * * * * *

b. DEPOSITION: SEPTEMBER 25, OCTOBER 14, 1975: RICHARD B. LYNN

i. September 25, 1975

In the United States District Court
Central District of California

(Title omitted in printing)

* * * * * * * *

[3]

RICHARD B. LYNN,

called as a witness by the Defendant Standard Oil, and having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION

By Mr. Klitgaard: Q. Will you state your full name, please?

A. Richard Bertrand * * * Lynn.

Q. What is your business address, sir?

A. 4340 Campus Drive, Suite 203, Newport Beach, California 92660.

* * * * * * * *

Q. What is your occupation?

A. I am an attorney.

* * * * * * * *

[6]

* * * * * * * *

Q. In the period 1968 to date, have you represented Mr. McCook at any time in connection with the suit that was brought against Standard Oil Company of California by the

[7]

United States of America through the Department of Justice involving petroleum supply in American Samoa?

A. I represented Mr. McCook insofar as his inquiry with respect to the possible validity of a private civil action against Standard Oil is concerned.

* * * * * * * *

Q. What did you do in connection with that inquiry?

A. I undertook the responsibility for the making of an assessment with respect to the possible claim of Mr. McCook.

* * * * * * * *

[8]

* * * * * * * *

Q. * * * [Y]ou stated

[9]

that you referred to or associated with counsel in San Diego to consult with you on a possible claim by Mr. McCook against Standard Oil?

A. That's correct.

Q. What was the name of the firm?

A. The firm at that time was Sullivan, Marinos, Augustine & Delafield.

A. The transmittal letter indicating that I am returning herewith all of your documents?

Q. Right.

A. Not to my knowledge.

[79]

* * * * * * * *

Q. Did you make copies of this initial set of documents from Mr. Turnbull and sent copies of those documents to Mr. Sullivan or to the Lyle Jones or Sullivan firm in San Diego?

A. I sent either the originals or copies made by myself, one or the other, I am sure.

Q. If you sent the original to the Lyle Jones

[80]

firm in San Diego, did you retain a copy of that document in your files?

A. Correct.

Q. Then did the Lyle Jones firm in San Diego return any of those documents to you at any time?

A. Sometime in May of '71 they returned, to the best of my knowledge, everything that I had sent them.

Q. Were those documents transmitted to you along with their May opinion letter?

A. Either at or within a day or two, one way or the other.

Q. When those documents came back from the Jones firm in San Diego in May, 1971, what did you do with the documents?

A. I retained them in my office.

* * * * * * * *

Q. Then were these documents among the documents, that is the documents you got back from Lyle Jones, among the documents that you transmitted to Mr. Turnbull on February the 2nd, 1972?

A. Yes.

* * * * * * * *

[94]

* * * * * * * *

Q. In the period June, 1970 through August, 1970 on you received some documents, did you not, from Mr. McCook?

A. Correct.

Q. Those were documents that Mr. McCook delivered to you in response to your request for documents concerning petroleum supply in American Samoa from his files?

A. Correct.

Q. How thick were the documents that you received from Mr. McCook in this period?

A. I would say they were modest, maybe a quarter of an inch to a half an inch.

* * * * * * * *

Q. Coming to the end of August, 1970, in the period June, 1970 through August, 1970, did you send any of the McCook or Turnbull documents to the Sullivan firm?

[95]

A. Yes.

Q. By that we are referring to your letter of August 26, 1970 in which you sent the one document?

A. No, a substantial number of documents had been sent long before that request for additional information came from Mr. Jones or Mr. Sullivan.

Q. In sending the documents to the Sullivan firm, did you send documents that came from the set that you got the first day at Mr. McCook's office?

A. Some of them.

Q. Did you send documents that you got from Mr. Turnbull in his first turnover of documents?

A. I am sure I did.

* * * * * * * *

Q. Then did the Sullivan office return all of those documents to you with the May, 1971 opinion letters?

A. Yes.

* * * * * * * *

[96]

* * * * * * * *

Q. Apart from that request to Mr. Turnbull and
[97]
Mr. McCook for documents in the period from August, 1970 to [October] 1, 1970—that is until the date of Mr. Turnbull's deposition in the Government case—did you collect any further documents from Mr. Turnbull or Mr. McCook?

* * * * * * * *

A. I don't recall either requests for receipt of further documents during that period of time.

Q. Do you recall attending the Turnbull deposition on October 1?

A. Yes.

Q. After the Turnbull deposition, did you request Mr. Turnbull to provide any documents to you concerning petroleum supply in American Samoa?

A. I don't recall any other requests to trace or seek out on the basis of, you know, "Have you looked as far as you can look," or, "Are you sure you have given me everything," or, "We are looking for this letter specifically." I don't recall that kind of an inquiry of Mr. Turnbull or Mr. McCook.

* * * * * * * *

[132]

* * * * * * * *

Q. Later on [in April, 1971], you did report to Mr. Mussman that you had conducted a search of the McCook files specifically for any documents that related to the supply of petroleum products in American Samoa. Do you remember that?

A. Yes.

Q. In making that representation to Mr. Mussman, before you made that representation did you go back and make another search of Mr. McCook's file or are you relying just upon the search you made on this occasion in October through December?

A. I made only one search of Mr. McCook's files.

Q. In going through Mr. McCook's files on this
[133]
one occasion in his office, the La Mirada Boulevard office, did you find any documents in those files in addition to documents that you had already collected from Mr. McCook or Mr. Turnbull?

A. No, I did not.

* * * * * * * *

[136]

* * * * * * * *

Q. What about the five or six or whatever number of documents that you found in Mr. McCook's files; do you recall what they were?

A. To the best of my recollection, they were

[137]

copies of Mr. Turnbull's—some of Mr. Turnbull's correspondence directed to other persons and/or copies of certain of Mr. McCook's correspondence. * * *

* * * * * * *

[140]

* * * * * * *

Q. Did Mr. Turnbull tell you that he had turned over documents to the Department of Justice at any time?

A. Yes.

Q. When did he tell you that?

A. At the first meeting that we held in La Mirada in early June, 1970.

* * * * * * *

Q. * * * Mr. Turnbull turned over documents to you in the period June, 1970 through August 19,

[141]

1970. Did [Turnbull] tell you that these were the same documents that he had turned over to the Department of Justice?

A. I think his statement was probably that the Justice Department had photocopied either all or substantially all of his file and I honestly don't know whether that event occurred in Los Angeles or in Washington, D.C. or San Francisco or what.

* * * * * * *

[142]

* * * * * * *

[Q.] * * * I just wanted to be

[143]

sure that when Mr. Turnbull turned over the documents to you in the period June, 1970 through August 19, 1970, that he told you or informed you that this was the same file that he turned over to the Department of Justice earlier.

A. I am sure that he made that representation.

* * * * * * *

[149]

* * * * * * *

By Mr. Klitgaard: Q. In connection with the Turnbull deposition, Mr. Lynn, * * * do you see your transcript here of the testimony of your statement at the Turnbull deposition in October, 1970?

A. Yes.

Q. Do you see the statement that you made that you went through the files of Mr. Turnbull?

A. Yes.

Q. Did you physically go through the files of

[150]

Mr. Turnbull to select out documents relating to American Samoa and petroleum supply in American Samoa?

A. Yes.

* * * * * * *

Q. * * * [W]hat I am trying to draw a distinction between, had you gone through Mr. Turnbull's files yourself in the same manner that you made a search of Mr. McCook's files or did you simply receive from Mr. Turnbull documents that he extracted from the files?

A. I'm correct that no, I never physically went through the steel file cabinets in Mr. Turnbull's office. No, I did not.

Q. In other words, all that you received from Mr. Turnbull were documents that he delivered to you?

A. That he indicated to me were the totality of

[151]

his papers.

* * * * * * * *

Q. You will see in Mr. Mussman's letter, which is 555 to 557, a reference to a request for search of the files of Mr. Turnbull, correct, in the first paragraph?

* * * * * * * *

Q. "You said that you would personally make the search for me and would furnish me with copies of all documents meeting this description"?

A. Yes.

Q. Well, did you in fact after receiving this November 9, 1970 letter at any time thereafter [to] the present time make a search of Mr. Turnbull's files, physical search of Mr. Turnbull's files for any documents?

A. Not before or after.

Q. After receiving this November 9, 1970 letter, did you ask Mr. Turnbull if he had any documents in his files

[152]

in addition to ones he had already produced?

A. I did.

Q. What did he tell you?

A. That he had nothing further.

* * * * * * * *

[159]

* * * * * * * *

Q. In the first sentence of this document [SDX] 425 you refer to a search during the week of April 17, 1971.

A. Mr. Klitgaard, it says here, "Please be advised Messrs. Turnbull and McCook files examined week ending 4-17-71."

Q. What did you mean by examined?

[160]

A. Meant that the files in my office were again examined in response to Mr. Mussman's request to me about my own independent judgment respecting relevancy. I did not physically leave my office prior to writing this wire in response to Mr. Mussman's inquiry regarding the question of relevancy.

* * * * * * * *

[161]

* * * * * * * *

Q. In responding to Mr. Mussman's request [April, 1971], did you go back and look at the files of documents that you collected from Mr. McCook and Mr. Turnbull over this period since June, 1970 and determine if there were any additional documents in those files that related to petroleum supply in American Samoa, other than documents TU 1 through TU 100?

A. I am sorry, Mr. Klitgaard. I really—I am not sure whether I can answer that yes or no. Would you ask the court reporter to read it back?

(Record read.)

* * * * * * * *

Mr. Palmieri: Are you talking in April?

By Mr. Klitgaard: Q. Yes, April 1971.

A. Yes, I did re-examine the file with that thought in mind.

Q. Did you discover any additional documents in the file at that time in addition to documents which were TU 1 through TU 100 and in addition to the couple of documents that were marked at Mr. Turnbull's deposition in October, 1970, which related to petroleum supply in American Samoa?

Mr. Palmieri: Do you mean the files that he had?

Mr. Klitgaard: Referring to Mr. Lynn's files first.

[162]

The Witness: My response to Mr. Mussman, which is Number 425, speaks to that and it states merely that he has my assurance there are no further documents.

* * * * * * *

Q. In connection with sending document Number 425,

[163]

did you go back to the office of Mr. McCook and look back down through the files in his office?

A. I just stated to you that I did not.

* * * * * * *

Q. Did you look at any files in Mr. McCook's garage to see if he, McCook, had any documents in addition to those mentioned?

A. No.

* * * * * * *

Q. Did you look at any files in Mr. Turnbull's office to see if he had any documents in addition to TU 1 to 100 and in addition to the two documents or three documents produced at his deposition in October?

A. No.

* * * * * * *

Q. * * * I have a letter dated January 13, 1971, Mr. Lynn.

* * * * * * *

Do you have that in front of you?

A. I have it.

* * * * * * *

[164]

* * * * * * *

Q. In writing this letter, was it your intention to include the McCook file within the Turnbull file?

A. I think yes.

* * * * * * *

ii. October 14, 1975

[44]

* * * * * * *

Q. Just so there is no misunderstanding, Mr.

[45]

McCook testified at his deposition that he delivered some documents to you at about this time in August, 1970, or sometime in the fall of 1970, which you copied. Do you recall that incident?

A. No, I don't. I honestly don't know what reason I would have to copy papers, because my function was not to make an analysis of it, but merely to try to place papers, you know, in the hands of the attorney who was charged with the responsibility of making the analysis.

* * * * * * *

[47]

* * * * * * *

Q. Let me ask you a more general question. At any time, sir, did you ask Mr. William R. McCook to turn over

[48]

to you documents that he had in his files concerning petroleum supply in American Samoa?

A. Yes.

Q. When did you ask him that?

A. Probably within an hour before I sent Mr. Mussman that wire.

Q. This was the wire of April 24, 1970?

A. Right, when I wanted to be on fairly good ground before I sent a wire saying that, as far as my client had represented to me, that he, Mr. Mussman, or Mr. Jones or Mr. Hollander had everything.

* * * * * * * *

[50]

* * * * * * * *

Q. In connection with telegram 425, did you ask Mr. McCook before sending this telegram to Mr. Mussman if he, Mr. McCook, had any documents in his files concerning petroleum supply in American Samoa which were in addition to or different than documents TU-1 to 100?

A. I am sure I didn't reference them by number. I am almost positive that before sending this wire, I examined the McCook and Turnbull files, as I stated, in my office, and that I went a step further and called.

Q. Called whom?

A. Mr. McCook, you are referencing now. Additionally, I am sure I called Mr. Turnbull and said, "I want to give Mr. Mussman assurances that there is no more documents fleeting around. Can you give me that assurance?"

[51]

Q. No more documents than that in TU-1 to 100?

A. No, I just said documents categorically. I am sure no more papers were referenced to the distribution of oil in American Samoa to which Mr. McCook and Mr. Turnbull said, "Not as far as I know," which then prompted the sending of this telegram.

* * * * * * * *

[58]

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Q. Did you ask Mr. McCook specifically at any time between the Turnbull deposition on October 1, 1970, and the date of this January 13, 1971, letter if Mr. McCook had

[59]

any documents in addition to those marked TU-1 through TU-100?

A. Yes, I did.

Q. What did Mr. McCook tell you?

A. He said, "Why don't you go look for yourself?"

Q. You went and looked for yourself in the files?

A. That's correct.

[80]

* * * * * * * *

Q. Did you make a list at any time of the documents that you received back from the Sullivan firm in San Diego, up until the date of Mr. McCook's deposition in March, 1971?

A. Other than correspondence from Mr. Jones and other than TU-01 through 100, it is not my present recollection that I had at the time received anything from San Diego.

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[106]

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Q. Was your inquiry to Mr. McCook, Mr. Turnbull and Mr. Jones or to the Sullivan firm [in April, 1971] addressed to whether there were documents in addition to TU-1 to 100?

* * * * * * * *

A. It was—I am sure that by that time, probably all references were to this bundle of 1 through 100.

Q. So, is it your testimony that your inquiry to McCook, to Turnbull and to the Sullivan firm was addressed to documents in addition to TU-1 through 100?

A. Yes.

Q. Your answer was that they didn't have any; is that correct?

A. Yes.

* * * * * * * *

[113]

* * * * * * * *

Q. I'd like to hand you now documents number 945 and 946.

A. I have 945 and 946 [copies of letter or telegram dated 4-16-71].

* * * * * * * *

[114]

* * * * * * * *

Q. Do you see the * * * statement that, "Lynn also advises that Turnbull turned over his entire file to you from which you extracted documents numbered TU-1 to TU-100"?

A. Right, the same statement that Mr. Turnbull had previously made. Sure.

Q. Had Turnbull made that statement to you?

A. He had made it in my presence at his deposition.

Q. I don't recall whether that was on the record or off the record or not, but do you recall this particular

[115]

statement being made by Mr. Turnbull?

A. You know, I was aware * * * that long before my awareness of the transaction that Mr. Turnbull had, in fact, been contacted by the Department of Justice and had given them certain documents.

Q. Well, this says Turnbull turned over his entire file.

A. I think that is a statement that Turnbull had made to me. That's correct.

* * * * * * * *

[118]

* * * * * * * *

Q. Did you have any communication with Mr. Hollander concerning this particular letter [dated April 19, 1971], which is marked 951 to 955?

A. I am reasonably sure I talked to Mr. Hollander between the 19th and the date of sending that telegram.

Q. Which was April 23rd?

A. Right.

Q. Did you talk to Mr. Hollander concerning this letter, 951 to 955?

A. Yes, I am sure that it was alluded to.

Q. Would you tell us, to the best of your recollection, what you said to Mr. Hollander and what Mr. Hollander said to you?

A. I think that Mr. Hollander indicated to me that he had, in response to Mr. Mussman's penultimate:

* * * * * * * *

* * * paragraph given the confirmation that Mr. Mussman said that he felt it was all that he needed, and we undoubtedly discussed generally if either of us felt that there was anything else anywhere, to the best of our knowledge.

Q. What did you say to Mr. Hollander in that connection?

A. I said in that connection I felt that I had nothing more than that which had already been—and I hesitate

[119]

to use the word produced, but that had been referenced as 1 to 100.

Q. TU-1 to 100?

A. Right.

* * * * * * * *

[120]

* * * * * * * *

Q. Do you recognize 956, 957 as the telegram [April 23, 1971] that you sent to Mr. Mussman?

A. Yes.

* * * * * * * *

[121]

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Q. Do you see the last sentence that, "This assurance is unequivocal and is in no manner dependent upon my independent judgment respecting relevance"?

A. Yes, I see the statement. That was in response to Mr. Mussman's questioning me about, you know, my judgment respecting relevance.

Q. This goes to the fact that he wanted anything regarding petroleum supply in American Samoa without regard

[122]

to your judgment of whether or not it was relevant?

A. Right, correct.

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[139]

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Q. I am going to hand you now, sir, document 537. Do you have that document in front of you?

A. Yes.

[140]

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Q. * * * In the first paragraph, you refer to forwarding some documents to Mr. Turnbull under separate cover. Do you see that?

A. I actually say, "I am forwarding all of the documents."

* * * * * * * *

Q. As a matter of fact, did you keep back some documents in connection with the claim against Standard involving American Samoa?

A. There was some correspondence, and I think probably some duplicates of papers that were retained, yes.

Q. These were the documents that we marked here at your deposition at the last session on September 25?

A. Yes, that's correct.

* * * * * * * *

c. DEPOSITION: NOVEMBER 24-26, DECEMBER 1-2, 1975, JANUARY 28, 1976: RAYMOND C. TURNBULL

In the United States District Court
Central District of California

(Title omitted in printing)

* * * * * * * *

[3]

RAYMOND C. TURNBULL,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

By Mr. Klitgaard:

Q. Will you state your full name, please.

A. Raymond C. Turnbull.

* * * * * * * *

[17]

* * * * * * * *

Q. Are you appearing here today pursuant to a subpoena duces tecum?

A. Yes.

* * * * * * * *

Q. I would like to direct your attention to

[18]

attachment A of the subpoena duces tecum which requests that you bring documents with these descriptions to the deposition today. Have you brought with you documents that are responsive to these descriptions?

A. They were submitted before plus what I have here.

Q. When you say "submitted before," what do you mean by that?

A. Well, did I submit these things before?

Mr. Palmieri [Counsel for Mr. McCook]: I think what the witness means is that you in the subpoena of Mr. McCook asked for all documents that he may have had, plus whatever Mr. Turnbull had, so I think Mr. Turnbull is speaking about that. He submitted documents in connection with Mr. McCook's deposition.

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[20]

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Mr. Klitgaard: Q. * * * [Y]ou have a series of documents on the table in front of us, Mr. Turnbull, and these are documents that I take it you are producing today in response to the subpoena?

A. That's all I have.

* * * * * * *

[21]

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Mr. Klitgaard: We have marked the documents which Mr. Turnbull has produced and turned over to us, as to which no claim of privilege is asserted, as Documents No. 981 through 1201.

* * * * * * *

Q. Apart from Documents No. 981 through 1201, Mr. Turnbull, do you have any documents in your possession or in the possession of any of your associates, partners, agents, employees, attorneys or representatives, which are responsive to the call of the subpoena duces tecum, putting to one side for a moment any documents to which you may assert a claim of privilege?

A. No.

* * * * * * *

[26]

* * * * * * *

Q. Do you have Document No. 430 to 433 in front of you, Mr. Turnbull?

A. Yes, I have them.

Q. Who wrote Document 430 to 433 and to whom is it addressed?

A. It is addressed to me, 8681 Wilshire Boulevard, signed by Howard L. Winton, attorney.

Q. And the date of the document is November 28, 1969?

A. Yes.

* * * * * * *

[27]

* * * * * * *

Q. Just read through the document and I am going to ask you if having reviewed the document your memory is refreshed as to the circumstances which led you to the preparation of that letter?

A. I must have had a meeting according to the second page, and he must have seen some of my papers at the time.

* * * * * * *

Q. Did you have occasion to meet with Mr. Winton before November 28, 1969, Mr. Turnbull?

A. I would say yes from reading the second page.

Q. And what led you to meet with Mr. Winton before November 28, 1969?

A. * * * Somebody recommended that I call him to find out whether there was any damages involved in the Samoa affair caused by Standard.

* * * * * * *

[28]

* * * * * * *

Q. And in contacting Mr. Winton in connection with these damages, were you acting on behalf of Mr. McCook—

A. Yes—not—yes.

Q. —at the time?

A. Yes.

* * * * * * *

[29]

* * * * * * *

Q. Do you recall bringing documents to Mr. Winton's office?

A. Pardon me?

Q. Do you recall bringing documents from your files to Mr. Winton's office?

A. I don't recall it. I could have.

Q. In the letter does Mr. Winton refer to documents that you may have brought to him?

A. He says, "From my review of the files and discussions with you"—

Q. Having in mind that reference by Mr. Winton, do you recall bringing your files to—

A. Not all of them, but I remember some key documents, and I say, I don't know whether those were the papers that emanated from that San Francisco trial.

* * * * * * *

[31]

* * * * * * *

Q. Well, did you have some files in your office involving petroleum supply in American Samoa?

A. Yes, but those—any documents that I had at that time would have been out of context with an evaluation. I can't see me taking the prices of petroleum, prices in American Samoa—that wasn't the theory at the time. It was were there any damages.

Q. Is it your testimony that your contact with Mr. Winton was to find out if there was a legal basis for claiming any damages in Samoa as opposed to an attempt to determine if Standard was wrongful for any misconduct in American Samoa?

A. I wanted to see if there was any basis for a suit for damages.

* * * * * * *

[37]

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Q. In 1965 did you have an office in Los Angeles?

A. Yes.

* * * * * * *

[38]

Q. What was the address of that office?

* * * * * * *

A. * * * 8530 Wilshire Boulevard, Suite 309.

* * * * * * *

[48]

* * * * * * *

Q. Did you maintain any files with correspondence or other documents in them concerning petroleum products?

A. My first effort was with Union, Union Oil Company, which then turned over to Unoco, a wholly-owned subsidiary of Union in Hong Kong, but the first opening was with the Union Oil Company.

Q. I am not trying to find out at all what was the substance of your conversations with Unoco and Union, I am simply trying to find out where you kept documents concerning—

A. They would have been in one place. They

[49]

wouldn't have been spread.

Q. Where was that one place?

A. 8530 Wilshire.

* * * * * * * *

Q. And were these documents kept in a file cabinet?

[50]

A. Yes.

* * * * * * * *

[51]

* * * * * * * *

Q. Did the files that related to petroleum supply in American Samoa have any title on them or label?

A. There would have had to be a label, or I still wouldn't have found them. I can't tell you what they are. Later they got to be Standard Oil and Star-Kist and VanCamp and correspondence and things like that.

* * * * * * * *

[59]

* * * * * * * *

Q. In the period that you were at 8530 Wilshire Boulevard, did you receive any documents from Mr. McCook concerning petroleum supply in American Samoa?

A. Receive any documents?

Q. Correspondence or other material

A. Yes.

Q. And did you put those documents in the four-drawer file cabinets?

A. They would have been in the file, yes.

* * * * * * * *

[60]

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Q. In 1965 when you changed addresses up to Holloway Drive, did you take the four-drawer file cabinets with you?

A. Yes.

* * * * * * * *

[64]

* * * * * * * *

Q. * * * Did you receive correspondence at that office, the Holloway Drive office, concerning petroleum supply in American Samoa?

A. Yes.

Q. And did you send out correspondence from that office?

A. Yes.

Q. And was that correspondence involving petroleum supply filed down by you as you sent it or received it?

A. Yes.

Q. In the four-drawer file cabinets?

A. Yes.

Q. Was it filed anyplace else—the correspondence that you got or received at the Holloway Drive—

A. You mean duplicates of them?

Q. Yes.

A. No, or any other part of it, anything connected would have gone into the file.

* * * * * * * *

[67]

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Q. When you moved from the Holloway Drive address down to 8681 Wilshire Boulevard, did you continue to maintain your files in the same way that you had before, as far as petroleum supply in American Samoa went?

A. Uh-huh.

Q. In other words, when you sent out a document

[68]

or a letter concerning petroleum supplies, you stuck that letter in the file?

A. Yes.

Q. And when you received a letter concerning petroleum supply, you put that letter in the file?

A. Yes.

* * * * * * * *

[69]

* * * * * * * *

Q. Mr. Turnbull, let's go back a moment and see if we can't get the time frame. The government filed this Complaint in the government antitrust suit against Standard of California on September 30, 1969. How did you hear that the government had sued Standard?

A. I was in Samoa at the time, and it was in the local newspaper which is in the file here somewhere.

* * * * * * * *

[71]

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Q. Until the first time you learned about the suit being filed, did you have any communications with Mr. Hollander concerning petroleum supply in American Samoa?

A. I can't tell you the date that he called me from Washington and asked me about my file. The first time he contacted me—I can't tell you the dates.

Q. Did he contact you after this trip that you were in American Samoa?

A. Yes.

* * * * * * * *

Q. You were there in October, 1969?

[72]

A. Yes.

* * * * * * * *

Q. And then after you got back to the United States, were you contacted by Mr. Hollander?

A. Yes.

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[76]

* * * * * * * *

Q. Did he contact you at your office at 8681 Wilshire Boulevard?

A. Yes.

* * * * * * * *

Q. What did Mr. Hollander say to you in this conversation?

A. He said that Governor Lee's files were incomplete, and he wanted to take a look at my complete file.

Q. Was this a telephone call?

[77]

A. I believe it was.

Q. Was Mr. Hollander calling you from Washington?

A. Yes.

Q. Did he identify himself as a lawyer with the United States Department of Justice?

A. Yes.

Q. Then did Mr. Hollander ask if he could come out and see your files?

A. Yes.

* * * * * * * *

It was right out of the blue.

Q. In other words, you had not contacted Mr. Hollander?

A. No.

Q. Had you ever heard of Mr. Hollander before the time of this telephone conversation?

A. Not that I remember.

* * * * * * * *

[78]

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Q. Then did Mr. Hollander come out to your office on Wilshire Boulevard?

A. Yes.

Q. And where were your files when he came to your office? Were they in the file cabinet?

A. Yes.

Q. What did you do when he—

* * * * * * * *

A. * * * He told me what he wanted. He said, "I want your whole file," and I said, "Look, I am up to my neck in all kinds of stuff, and it can be stuffed in all kinds of files," so I started pulling all the files.

Q. All the files?

A. All the files that I thought pertained to American Samoa and petroleum.

Q. Would these be also the files where you might have filed the document that contained a reference only partly to petroleum and partly to something else?

A. I believe it would have contained that, too.

Q. And was Mr. Hollander in your office while you were pulling the files?

[79]

A. Yes.

* * * * * * * *

Q. What files did you pull out and have available for Mr. Hollander?

A. Well, everything that was apparent on the leaf here.

Q. On the leaf on the folder?

A. Yes.

* * * * * * * *

Q. Did you collect these files in a pile on your desk before you gave them over to Mr. Hollander?

A. Yes.

Q. How thick were the files that you gave to Mr. Hollander?

A. I would say about that high (indicating).

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[80]

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Q. [W]ere the files about a foot high?

A. No.

Q. About six inches high?

A. I'd say yes.

Q. And were the files in more than one file folder?

A. Oh, yes.

Q. About how many file folders, do you recall?

A. Oh, eight or nine.

* * * * * * * *

Q. Did Mr. Hollander look through the folders right in your office?

A. He glanced—yes, he glanced through them. Not—he didn't get down and study them, but he glanced through them and then put them in his briefcase.

Q. And took them with him?

A. And took them with him.

Q. Did you make any list of the dates or numbers of the documents?

[81]

A. I wish I had, but I didn't.

Q. Did Mr. Hollander take the file folders as well as the documents in the folders?

A. Yes.

* * * * * * * *

Q. Anybody else in the room besides you and Mr. Hollander?

A. No.

Q. About how long did this meeting last?

A. Well, it went quite rapidly, less than a half an hour.

Q. Did Mr. Hollander number any—

A. No.

Q. —documents while he was in your office?

A. No, no.

* * * * * * * *

Q. Did Mr. Hollander give you a receipt for the documents?

A. I don't remember getting any receipt from him on it, no.

Q. What did he say to you when he was at your office as best you can recall?

[82]

A. Well, of course, he had identified himself before, and that is the reason he came into the office, and he said that they wanted the file, that Governor Lee's file was not complete, and he didn't know where he had filed all his stuff, and so they wanted my file.

* * * * * * * *

Q. Apart from the documents that we have numbered today at the deposition—

A. I'm tapped out. I have no more.

[83]

Q. —you have no more documents?

A. Nothing.

* * * * * * * *

Q. * * * When Mr. Hollander came to your office in 1969, you made available a number of files which he took back to his office; correct?

A. Yes.

Q. Then when Mr. Hollander left, did he have a telephone conversation with you again after that about returning the documents back to you?

A. Could have been. I'm not—it's not fresh in

[84]

my mind.

Q. If you look at Document 429, which is this letter of July 20, 1973, do you see where Mr. Hollander references returning documents to you on November 3, 1969?

A. Yes.

Q. Did Mr. Hollander bring the documents, the folders, back to you at your office on—

A. I thought they were mailed.

* * * * * * * *

Q. Do you recall having any other meeting with Mr. Hollander at your office at 8681 Wilshire Boulevard other than this one instance where you gave him your files?

A. No, but in the back of my mind, there is—I thought he was there twice, and I can't tell you why, whether he made his pitch to get the papers first and then came back within a reasonably short time and picked them up. I don't know, but he—I believe he mailed all these things back.

* * * * * * * *

Q. When he mailed the folders, the papers, back to

[85]

you, what did you do with the—

A. I just left them in the same container and didn't check them, because I had no rundown on what I had given him, and just took them and put them back in the file in the same—in the same folder that he had mailed them to me.

Q. When you got the documents back from Mr. Hollander, were any of those documents numbered with TU numbers, or were they just the same documents you had sent to him without numbering?

A. Frankly, all I did was open it up to see that they were the documents he sent back, and didn't make—I didn't read anything. I just shuffled through them and stuck them in the file.

Q. Did you see any—

A. I don't remember.

* * * * * * * *

[87]

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Q. Did you pull the documents from the files yourself to give to Mr. Hollander, or did you ask someone else to do that?

A. No, I did it.

* * * * * * * *

[88]

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Q. * * * Now, in talking about when you collected the documents from your files to give to Mr. Hollander when he

came to your office, how did you check to make sure that the documents you gave him did in fact relate to petroleum products?

A. Well, if they had anything to do with petroleum products, I would look through to see—like this—and laid that aside, pick up another one and look, and if it

[89]

had nothing to do with it, I would put them back in the file.

* * * * * * * *

[91]

* * * * * * * *

Mr. Klitgaard: Q. * * * When Mr. Hollander came to your office and the documents were pulled for him, were the documents on your desk in separate file folders?

A. No, not all of them.

Q. Were some of them in file folders?

A. Yes.

Q. And did Mr. Hollander take the file folders with him as well as the loose documents?

A. Yes.

Q. When Mr. Hollander returned the documents, did he return the file folders as well as the loose documents?

A. I don't think so. I don't remember getting the file folders back.

Q. In other words, * * * he took the documents, some of which were in file folders, some of which weren't, and when he returned the documents, he sent them back to you mixed up in a big brown envelope without the file folders in them?

A. Yes.

Q. And then at some later date you took the documents out of the big brown envelope and put these documents back into the various files in your office?

A. That's right.

Q. Did you make up new file folders, then, for the—

A. Well, the ones—no. The ones that were out

[92]

and didn't have file folders, I made up new file folders for. The—my reason for knowing that that is correct is that—no—that's all right.

Q. Go ahead, tell me the reason.

A. I have seen some documents hooked together since that time that I don't believe should be hooked together. They were unrelated to the front sheet.

Q. In other words, by "hooked together," do you mean stapled together?

A. Yes.

Q. And how did they come to be stapled together?

A. I don't know. I didn't staple them.

Q. It was when you got them back you think they were stapled together?

A. Yes.

* * * * * * *

Q. In other words, an attachment to a letter might not be—

A. Might not be the right attachment.

* * * * * * *

[93]

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Q. In connection with the documents that came back to you from Mr. Hollander, did you deliver any of those documents to Mr. Winton or Mr. Medvane?

A. I could have shown them to him if it was in the right time frame, subsequent to getting them back from Hollander.

Q. Do you recall showing any of those documents that came back from Mr. Hollander to Mr. Winton or Mr. Medvane?

A. I showed Mr. Winton something. I can't remember now what I showed him.

* * * * * * *

[97]

* * * * * * *

Q. In your testimony earlier today concerning your conversation with Mr. Hollander, do you recall stating that Mr. Hollander mentioned some gaps in the files of Governor Lee concerning documents for petroleum supply in American Samoa?

A. He used the word "incomplete."

Q. That the files of Governor Lee were incomplete?

A. Yes.

Q. And when Mr. Hollander came to your office, did he just ask to see the documents that passed back and forth between you and Governor Lee, or did he ask you to see all your files on American Samoa?

A. All the files.

[98]

Q. How did he phrase that? Did he ask to see all your documents concerning American Samoa?

A. Everything, yes.

Q. Involving petroleum products, that is?

A. Yes.

* * * * * * *

Q. * * * In connection with Mr. Hollander's visit to you in October of 1969, did you obtain any documents from Mr. McCook so that you could

[99]

deliver those documents to Mr. Hollander?

A. Not unless I had them already in the file. Not specifically did I call Mr. McCook that I remember, in which I said, "Mr. Hollander wants the whole documents. Do you have any documents?"

Q. You didn't ask Mr. McCook—

A. Not that I remember.

Q. —to provide any documents for Mr. Hollander?

A. No, I don't think so.

Q. Did you collect any documents from any place for Mr. Hollander other than the documents in your file?

A. No, I did not.

* * * * * * * *

Q. At the time of Mr. Hollander's visit to you in October of 1969, were you discussing with Mr. McCook the possibility of bringing the lawsuit against Standard?

A. I think we discussed it, yes.

* * * * * * * *

[100]

* * * * * * * *

Q. Do you recall the labels on the file folders that you delivered to Mr. Hollander in 1969?

A. No. They were varied.

* * * * * * * *

Q. Under what labels had you filed documents concerning petroleum supply in American Samoa?

A. As I say, it was varied and depended—depended on whether it was all about oil, which I tried to keep in one file, or whether it was under—there might be a paragraph in a letter which concerned dredging or some other operation down there. It might have a little

[101]

description in it.

Q. Did you have a dredging file?

A. Yes.

* * * * * * * *

Q. Did you in providing the documents to Mr. Hollander pull documents from other files and put them on the table for him?

A. Yes.

* * * * * * * *

[102]

Q. The documents that were loose were documents you had obtained from other files?

A. Yes, but germane to petroleum products.

Q. Did you tell Mr. Hollander you were giving to him all the documents that were in your files relating to petroleum products in American Samoa?

A. To the—yes.

* * * * * * * *

[114]

* * * * * * * *

Q. In other words, any documents you brought to Mr. Winton were strictly in your own files?

A. That's right. Now, those files from me could have included Mr. McCook's; you understand—his proposal to the Governor.

Q. His proposal to Governor Lee in 1965?

A. Yes.

Q. Is that what you are referring to?

A. I would have had copies of that kind of material.

* * * * * * * *

[120]

* * * * * * * *

Q. Do you recall getting back at least one big envelope from Mr. Hollander?

A. Yes.

Q. And one small envelope from Mr. Hollander?

A. One smaller.

Q. Do you recall getting back the big envelope from Mr. Hollander shortly after you met with him in October of 1969?

A. Shortly—I don't know.

Q. Well, within a period of months?

A. Yes.

Q. And do you recall getting back the small envelope from Mr. Hollander at some—

A. Later date.

Q. —later date after you got back the big envelope?

A. Yes.

Q. Do you recall getting back the small envelope from Mr. Hollander several months after you got back the big envelope, or was it more than several months?

A. No, it wasn't several months.

Q. Was it closer than several months?

A. Yes.

* * * * * * * *

[121]

A. When he took all of the material, he says, "I am going to look through this file, and I am only going to take out what I want to take out of it." So he took it. Now, I get a package of stuff back to the office. So I stuff it in the file, and then my recollection is faintly that I got another one, but I was busy at the time, and I remember seeing something from the Justice Department. I stuffed that, too, as the balance of the papers.

Q. And the second envelope was the smaller envelope?

A. It seemed to be smaller, yes.

Q. And then a couple of years later you got back the envelope or an envelope with the Tu documents in it, Tu 1 to 100, which is referred to here; is that—

A. Yes.

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[125]

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Q. * * * In the time sequence of your visit with Mr. Winton and Mr. Medvane, did you take to them any documents that you did not give to Mr. Hollander?

A. No.

Q. Was anything that they saw also seen by Mr. Hollander?

A. Yes.

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[127]

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Q. Were there any specific file folders that you recall putting any of these documents into that you got back from Mr. Hollander?

A. No, because I had about 10 or 12 files with different headings on them. I don't remember anything specific.

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[128]

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Q. Did Mr. Lynn at any time tell you that he was contacting the Sullivan firm in San Diego concerning a possible lawsuit against Standard?

A. Yes.

Q. Were you aware that Mr. Lynn had had a meeting

[129]

with the Sullivan firm in San Diego?

A. I believe I was.

Q. At any time, Mr. Turnbull, did you send documents to the Sullivan firm in San Diego?

A. I don't know whether I sent any directly to them, but I believe Lynn had given some documents that Lynn wanted to give to Mr. Lyle.

Q. You mean Mr. Jones?

A. Yes, Lyle Jones, because he had to have some documentation to place his thoughts on.

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Q. I take it at some point though you did have a discussion with Mr. Lynn concerning a possible suit against Standard?

A. Yes.

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[130]

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Mr. Klitgaard: Q. Do you recall providing documents from your files to Mr. Lynn to review?

A. Yes.

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[131]

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Q. In providing documents to Mr. Lynn or to Mr. Jones at any time, did you give them copies of documents and retain the originals in your files?

A. Everything—yes. My belief was that everything that went out was not an original. It was copies.

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[135]

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Q. * * * Did you send to Mr. Jones the entire packet of—

A. No.

Q. —documents that you made available to Mr. Hollander?

A. No.

Q. Did you go through your files and pull out specific documents for Mr. Jones?

A. Whatever they asked for, which would have been a verbal request from him to me.

Q. And was his request to you in terms of specific documents?

A. I think that to be true, yes.

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[136]

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Q. At any time did you collect documents from Mr. McCook and send those documents to Mr. Jones?

A. When you say did I collect them, you are talking about a time frame. I had a copy—I had a copy of his proposal and copies of everything concerning Bill's offer to the government—things like that. He didn't have too much stuff, and I don't think that I ever said, "Give me a copy of everything you have got."

* * * * * * * *

Q. * * * [D]id Mr. McCook ever deliver to you documents out of his file that you hadn't seen before but that related to petroleum supply in American Samoa?

A. There was only one, only one that I hadn't seen that I remember.

Q. What was that?

A. And that was the last—the last letter from Governor Lee to Bill McCook.

Q. That would be a letter of November, 1965?

A. If that's the last letter.

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[139]

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Q. Do you recall the size of the file Mr. McCook had on American Samoa?

A. Well, the file, if I remember correctly, I saw

[140]

some file, but it appeared not to have very much in it. It wasn't a thick file.

Q. And did you look through the documents in that file?

A. Yes, I think I did, and I remember seeing his offer to—on his letterhead.

Q. Offer to Governor Lee?

A. Yes.

Q. Was he—

A. I don't remember seeing anything else.

Q. Did you see any document in that file that you had not seen before? I want you to have specifically in mind Document No. 247, which we just looked at.

A. There's one—there's one thing about this letter that looks familiar.

Q. Document 247?

A. 247, and that's the initial paragraph.

Q. What is that?

A. "Your letter of October 5 reached us today, and it was apparently sent surface mail." Now, that sticks in my craw because I remember Bill having some—some letter in which he said I sent it air mail and it was stamped air mail, and it went by boat, and that—that's the only thing that brings it to my mind.

Q. Did you see a copy of that letter in Mr. McCook's file when you looked at the file?

A. Unless that's where I saw it, because as I say, the surface mail thing is the only thing that gives me a

[141]

recollection.

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[143]

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[144]

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Q. Did you supply to Mr. Jones any documents that you did not provide to Mr. Hollander?

A. No, no.

Q. Did you provide to Mr. Lynn any documents that you did not provide to Mr. Hollander?

A. No.

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[145]

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Q. In October, 1970, we had a deposition here in Los Angeles in the government case in which you were deposed.

[146]

A. Yes.

Q. The date was October 1, 1970. Do you have that deposition generally in mind?

A. Yes, generally, yes.

Q. And you remember that Mr. Lynn was here at the deposition?

A. He was sitting alongside of me.

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[147]

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Q. Before you went to your deposition on October 1st, 1970, had you made a search of your files to see if you had any documents in those files in addition to the documents that you had delivered to Mr. Hollander?

A. Yes.

[148]

Q. And did you find any additional documents?

A. I don't think I did at the time.

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[156]

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Q. Did you provide a file or files to Mr. Lynn for [157] him to look through?

A. Yes.

Q. And where did you provide these files to [him]?

A. As I say, it could have been in his office when I came down with some things under my arm or McCook's office or at breakfast in Newport.

Q. Did you bring down all your files?

A. No, I didn't.

Q. Just some of them?

A. Yes.

Q. And how did yon know what files to bring down to Mr. Lynn?

A. Well, contracts, Unoco thing, a hodgepodge.

Q. Did Mr. Lynn ask you to bring all your files down involving petroleum products?

A. I suppose he did. I don't—I didn't selectively go through it. I grabbed some stuff that I had generally, you know, without having duplications and things like that. I had a file covering almost everything that I could take. I didn't carry voluminous volumes with me.

Q. Were there some documents that you didn't bring down to Mr. Lynn?

A. If I did, it would have been an oversight or the guts of the deal he saw.

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[158]

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Q. And was this before Mr. Lynn was talking to Mr. Jones?

A. It would have been prior, I believe.

Q. Do you recall how thick the file was that you brought down to Mr. Lynn?

A. Not in measurement.

Q. Was it as thick as the files that you made available to Mr. Hollander?

A. No.

Q. Was it say half the size of the files you made available to Mr. Hollander? We established six inches on—

A. No, no. It would have been, I'd say, an inch or inch and a half, something like that.

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[160]

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Q. * * * [Y]ou referred to a meeting in Mr. McCook's office. Do you have that meeting in mind?

A. I remember one meeting when we were up there. You see—go ahead.

Q. This was a meeting out at Firestone Boulevard?

A. Yes.

[161]

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Q. Did Mr. McCook have any files present at that meeting?

A. No, not at the meeting, but I think it was at that time I looked in his file, if I remember correctly.

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Q. And did you see anything in his files at that time that was different from the documents that you delivered to Mr. Hollander?

A. No, I just remember—I went over three or four documents in the file.

Q. Were these documents different than the documents you delivered to Mr. Hollander?

A. I don't think so. I don't—as I am going back to that letter again at which we talked about the mail that went by boat, which was catastrophic for us at the time.

Q. Referring to Document [247]?

A. Yes, I am referring to Document 247. That is the only memory of that letter which means I would have seen that document, I guess, because that stuck in my mind.

* * * * * * * *

Mr. Klitgaard: Q. Do you want to take a look at that?

[162]

A. Yes.

Q. You see at the top of 247 "Tell Ray and file"?

A. "Tell Ray and file." Now, who did he tell to tell Ray?

Q. Did you have a copy of 247 in your files at any time?

A. No.

Q. Are you sure of that?

A. I'm sure. You'd have had it.

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[165]

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Q. If you look at Document No. 247, you will see in the first paragraph "Your letter of October 1965 reached us only today, as it was apparently sent surface mail."

A. I—I must have seen that, because I saw that. I saw something that said "surface mail."

Q. So our record is correct in stating your testimony now, Mr. Turnbull, is it your testimony that you recall seeing this document, namely 247, in Mr. McCook's file out in the office at Firestone Boulevard?

A. It would have had to be the time.

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[168]

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Q. After your deposition in October, 1970, did you

[169]

go back and look in your files to see if there were any more documents involving petroleum supply in American Samoa?

A. Apparently in my deposition Mr. Mussman had brought up the subject of—he had an uneasy feeling that there wasn't—he didn't have all the documents. Yes, I did.

Q. Did you go back and look in your files?

A. I sure did.

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[172]

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Q. Did you find any documents in those files which were different from the documents that you delivered to Mr. Hollander?

A. No, I didn't.

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[174]

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Q. And how long did it take you to look through your files?

A. Oh, maybe a couple of hours sorting things out.

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Q. In going through your files, did you look through all the folders in the cabinets?

A. I didn't look through all of them. I looked through everything that had to do—my understanding was—had to do with the oil situation.

Q. Petroleum supply?

A. Petroleum supply.

Q. Did these include the folders that contained

[175]

documents which related in part to petroleum supply and in part to something else?

A. Yes, like alluding to it in a short little sentence—that is, coming across the ocean to McGee.

Q. Where is a document like that filed in your files?

A. That would have to be say in a letter, some letter about something other than talking about me racing in the Grand Prix, and this kind of stuff.

Q. It would be a letter unrelated to any of your ventures in American Samoa?

A. Yes.

Q. Did you look back through the files that related to your various business interests in American Samoa, whether it was Pacific Coconut Processing or something else, to see—

A. Well, I looked in every file that I thought had anything that would allude to the oil business.

Q. And did you find any new or additional documents?

A. No.

* * * * * * *

Q. After you went back in your files, about how soon after that was it that you told Mr. Lynn you hadn't found anything?

A. Well, I remember it became a cause celebre about

[176]

this whole thing, Mussman saying, "I think there is something missing."

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Q. And about how many file folders did you look through?

A. Oh, about 10 or 12.

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[202]

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Q. * * * [I]n April of 1971, did Mr. Lynn ask at that time if you had any further documents concerning petroleum supply in American Samoa?

A. This is after my deposition?

Q. Your deposition was in October, 1970. This is six months later.

A. It could have been. I don't remember the specific time frame he called.

Q. You see the statement [in telegram dated 4/16/71] "Lynn also advised that Turnbull turned over his entire file to you from which you extracted Documents No. Tu 1 to 100"? Do you see that statement?

A. I do.

Q. Was Mr. Lynn being accurate in that statement?

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A. It is accurate. I took everything I had to give to Mr. Hollander, and he went through every bit of it and took what he wanted.

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[206]

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[210]

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A. When Mr. Hollander came to my office, he said, "I want all you have," and I said it doesn't all apply to you. "That's okay, I will take it back to Washington, look through it and give you back the things and only take out what we need."

Q. And then—

A. So I got two sets or three sets of documents. I think the first batch was stuff he didn't use.

Q. And the second batch was Tu—

A. Then I got the Tu numbers.

Q. And was that in the second batch?

A. I think it was in the second batch.

Q. And then in going back through your files, did you take those Tu-numbered documents—

A. And compare them—

[211]

Q. Yes.

A. No.

* * * * * * * *

Q. I just want to ask why didn't you compare them?

A. Well, I was familiar reading the Tu numbers. If there had been anything different, I would have then pulled it out. I mean, if there was any similarity—I was looking for something new.

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[November 25, 1975]

[214]

RAYMOND C. TURNBULL,

having been previously duly sworn, was further examined and testified as follows:

EXAMINATION (Continued)

By Mr. Klitgaard:

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[215]

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Q. I am going to hand you a document marked DDX 155 at your deposition in October, 1970 * * *

* * * * * * * *

Have you seen this document before today?

A. Yes.

Q. Was this one of the documents that you delivered to Mr. Hollander?

A. Yes, I believe so.

Q. I will represent to you that this document is

[216]

not among documents Tu 1 to 100, and I will ask you, sir, if before your deposition in October, 1970, you made any further search of your files to determine if you had additional documents relating to petroleum supply in American Samoa.

A. Before the deposition?

Q. Yes.

A. I don't remember specifically that I did, but—I don't remember.

Q. Before your deposition in October, 1970, had you got back your files from Mr. Lynn, the files that you delivered to him?

A. I don't remember that either.

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[220]

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Q. I am going to hand you now, sir, a document that was marked 158 at your deposition on October 1, 1970, and

[221]

that is now marked SDX 151. Do you have that document in front of you?

A. Yes.

Q. Have you seen a copy of this document before today, sir?

A. Just a moment. I know the letter—I remember the letter.

* * * * * * *

Q. Do you recall making a search for this document prior to your deposition on October 1, 1970?

A. No.

Q. Was this one of the documents that you delivered to Mr. Hollander the year before?

A. I don't remember whether I gave this to Mr. Hollander. I didn't look at the—I just pulled the files out for Mr. Hollander, and he took—he took everything that he wanted.

Q. He took everything that he wanted?

A. He took everything that I had. At the time I believe he took everything that I had.

Q. Did you ever find anything in your files at any

[222]

time from October, 1969 to date that you didn't give to Mr. Hollander?

A. Well, these things I brought to you yesterday, and I think I did.

* * * * * * *

Q. Apart from the documents you produced yesterday and which were marked for identification at your deposition yesterday, have you seen any other documents that you didn't produce for Mr. Hollander?

Mr. Palmieri: If you know.

The Witness: Well, I don't know whether I did or not.

Mr. Klitgaard: Q. I am going to hand you now, sir, a copy of Document No. 157, which is a letter dated May 29, 1964, from James McGee to you. It is marked DDX 157 at your deposition and marked SDX 152 in the present set of depositions. Do you have that document in front of you?

A. Yes.

Q. Do you recall bringing this document 157 to your deposition in October, 1970?

A. No.

[223]

Q. Do you recall in what file this document was maintained?

A. No.

Q. Did you have a special file for Union Oil Company?

A. No.

Q. Did you have a special file for Unoco?

A. No, I didn't.

Q. I will represent to you, sir, that this document was not among the documents numbered Tu 1 to 100, and I will ask you whether or not this was one of the documents that you produced for Mr. Hollander in October, 1969?

A. I would have no way of remembering.

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[225]

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Q. In going through the file cabinets [after disposition in October 1970] did you have the set of documents Tu 1 to 100 in front of you?

A. I don't specifically remember.

Q. Did you remember each and every document that you had delivered to Mr. Hollander in October of 19— —

A. No.

Q. — —69?

A. No, I didn't.

Q. How did you compare, sir? How did you determine whether there were any additional documents in your file that were different from the documents Tu 1 to 100?

A. I wouldn't—it wouldn't have been a slipshod way of going through, pulling something out that wasn't congregated in the files.

Q. I want to be sure you understand my question.

A. I understood it. How would I know if I didn't

[226]

compare with the Tu numbers.

Q. Yes, how would you?

A. Well, I was looking through other files that had other things in them. I wouldn't have compared it.

Q. Do you have any recollection at this time of having any documents numbered Tu 1 to 100 in your files on October 1?

A. I don't.

* * * * * * *

A. I was just glancing through my files to see if I came up with something that appeared to be new.

Q. Mr. Turnbull, in the prior year, when you had delivered the documents to Mr. Hollander from your files when you delivered the folders, had you looked through each one of the documents in those folders before the time you delivered them to Mr. Hollander?

A. No.

Q. In going through your files after your deposition, the day after your deposition, how did you know whether you were seeing documents in addition to documents delivered to Mr. Hollander, or how did you know that you weren't seeing documents in addition to documents delivered to Mr. Hollander?

A. Well, I wasn't totally unfamiliar with the—

[227]

with my general file anyway on this thing, and it is easy enough to take a look at something I remember like what you threw out here to me.

Q. Looking at DDX 155?

A. Looking at things that were familiar. 376, and what is that—152 and 151. That wouldn't have been anything new to me.

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[234]

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Q. This is Document No. 558. Do you have that document in front of you?

A. Yes.

Q. And it shows a carbon copy to you; correct?

A. Yes.

Q. Do you see the statement in there * * * that the documents previously marked Tu 1 through 100 constitute the totality of the Turnbull file respecting the above matter?

[235]

A. Yes.

Q. Now, sir, as of January 13, 1971, did you have a set of documents Tu 1 to 100?

A. Yes.

Q. Did you go back through your files before the time that Mr. Lynn sent this letter to Mr. Mussman and check each document in your file against Tu 1 to 100 to see if there were additional documents in the files?

A. In addition to the Tu numbers?

Q. Yes.

A. I looked through the other files that were unrelated to the oil and gas business to find out whether there was anything that could have been slipped in there, and there weren't any there.

Q. Did you look through the documents that Mr. Hollander returned to you to see if there were any other documents other than Tu 1 to 100?

A. I don't recollect looking through anything I had gotten back.

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[237]

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Q. Now, sir, is there any reason why you didn't look through the files you had gotten back from Mr. Hollander?

A. Because it would—because I believed at the time or would have believed at the time that all those documents were already a matter of record.

Q. Had already been given to Standard?

A. Had already been done. * * *

Q. In February, 1971, you received a letter from Mr. Lynn. I would like to hand you a copy of this letter, sir, which is Document No. 1199. Do you have that document in front of you?

A. Yes.

Q. I think you testified yesterday that the handwriting on this document is yours; is that right?

A. That's right.

Q. When was this handwriting put on this document, sir?

A. I don't know.

Q. Was it put on in the year 1971?

A. Yes, it would be, but I don't remember my reason for having put it on.

Q. You see that the letter is entitled "McCook— Standard Oil"?

[238]

A. Yes.

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Q. * * * [D]o you see the Paragraph 2 that says "Top billing"? * * *

Would you read that?

A. It is "Top billing. McCook—Standard Oil. A suit deals with services over a period of time made fruitless by Standard Oil lowering prices—restraint of trade."

Q. What do you mean by "Top billing," sir?

A. Well, whether there was any reason for—for us both to be in the suit.

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[240]

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Q. Do you see the Document 1199 is in those documents that you produced yesterday?

A. Yes.

Q. And did you obtain the documents that you produced yesterday from your files, or did you collect them from other files in addition to your files?

A. Must have been in my file.

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[242]

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Q. * * * Do you see the statement in the second paragraph, "Mr. Jones' inquiry respecting events occurring between Mr. McCook and Governor Lee during the week of August 25, 1965 are in need of exploration"? Do you see that?

A. Yes.

Q. Do you see your handwritten notes down at the bottom of the document?

A. Yes.

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Q. And seeing that, sir, is it your recollection

[243]

that you put these handwritten notes on this document sometime in 1971?

A. Yes.

Q. And is it your recollection that you put these notes on the document sometime in 1971 within a month or so after you received Document 1199?

A. Yes.

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[246]

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Q. Sir, I am going to hand you a document numbered 246, which is a letter dated October 5, 1965 from Mr. McCook to Governor Lee. Do you have 246 in front of you?

A. Yes.

Q. Do you see that that letter is dated October 5, 1965?

A. Yes.

Q. Do you see at the bottom of the letter of February 19, 1971, there is a statement in the very last line "Lee-McCook, refer to Bill's letter of October 5, 19—"—

* * * * * * * *

A. Yes.

Q. Will you look at the document you are holding in your right hand, which is a letter dated October 5, 1965, which is No. 246?

[247]

A. Yes.

Q. In the blue handwritten notes at the bottom of 1199—

A. Yes.

Q. —are you referring to this Document 246 which is in your right hand?

A. Yes.

* * * * * * * *

Q. How did you know about the letter in your reference to it on Document 1199?

A. I don't remember. I would have had to have seen it, but I can't tell—I can't tell you whether it was in my file or not

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[248]

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Q. In any event, as of February or March, 1971, you knew about the October 5, 1965 letter from McCook to Lee, did you not?

A. February, 19— — yes.

Q. Is your answer "Yes"?

A. Yes.

[249]

Q. Now sir—

Mr. Palmieri: Depending on when he made these notes.

Mr. Klitgaard: Q. That's what I wanted to go back to.

A. Let's see. You mean at the time—did you say February 19th?

Q. No, I said—

A. Was I familiar with this?

Q. I said in February or March, 1971.

A. Well, at this time was I familiar with that?

Q. Yes.

A. Yes, sir. I wouldn't have written on it on the bottom.

Q. In other words, you were familiar with the October 5, 1965 letter?

A. I must have been, yes.

Q. Sometime in February or March, 1971?

A. Yes.

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[254]

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Q. Directing your attention now, sir, to Document

[255]

No. 425, which is a telegram dated April 23, 1971, from Mr. Lynn to Mr. Mussman, do you have this document in front of you, sir?

A. Yes.

* * * * * * * *

Q. In April, 1971, did Mr. Lynn ask you to go back through your files and make a search for any documents in addition to Tu 1 to 100?

A. Yes.

Q. What did Mr. Lynn ask you to do, sir?

A. To see if I had any other documents in connection with the case or petroleum products.

Q. At this time, sir, did you have in your documents a set of documents Tu 1 to 100?

A. Yes.

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[256]

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Q. By let's say the 1st of April, 1971, had you received back from Mr. Hollander the documents which you had given to him?

A. Yes.

Q. And you received those back in two envelopes; correct?

A. Different times, yes.

Q. One big envelope and one thin envelope?

A. One larger than the other, yes.

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[257]

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Q. * * * [W]hen you went back into your files before April 23, 1971, did you compare the documents in your files with set Tu 1 to 100?

A. No.

Q. Did you look in the files that the government had returned to you to see if there were any documents in your files in addition to Tu 1 to 100?

A. No, I did not.

Q. What files did you look in to see if there were documents in addition—

A. All the other files that were unrelated to oil and gas. I just went through every one of them looking for anything that would tie in, because what I had had originally had already been turned in. I was looking for new things that Mr. Mussman couldn't find or wanted.

[258]

Q. Is it your testimony that you did not go back through the documents that the government returned to you to see if there were in those documents—

A. I don't remember having gone through those documents because I thought those were in evidence.

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[260]

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Q. From whom did you receive that set of documents numbered Tu 1 to 100?

A. From Mr. Hollander.

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[261]

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Q. If you will look at the first line of Document 425, you will see the statement that "Please be advised that Messrs. Turnbull and McCook's files examined week ending 4-17-71." Do you see the statement?

A. Yes.

Q. Did Mr. Lynn personally come to your office at any time before April 23, 1971 and make a search of your files, Mr. Turnbull?

[262]

A. Mr. Lynn—my recollection is that Mr. Lynn never actually went through my files. * * *

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[263]

Q. In searching the files in your office in response to Mr. Lynn's request, that is before this April 23, 1971 telegram, did you discover any new documents relating to petroleum supply in American Samoa?

A. I can't remember having found any.

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[273]

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Q. Now that we have talked a while about the February 16, 1972 letter, do you recall receiving in a separate packet or folder the documents that Mr. Lynn refers to in this letter 537?

A. Yes.

Q. How thick was that packet, sir?

A. I can't tell you.

Q. Was it a foot thick?

A. Oh, no.

Q. Was it an inch thick?

A. Not even that.

Q. Less than an inch thick?

A. Yes.

* * * * * * * *

[294]

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Q. Mr. Turnbull, do you have the letter in front of you dated July 20, 1973 from Mr. Hollander, and do you recall receiving Documents Tu 1 to 100 with that letter?

A. Yes.

* * * * * * * *

[295]

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Q. [D]id you go back into your files after receiving this letter to see if you had any documents in addition to Tu 1 to 100 which were returned to you by Mr. Hollander in 1973?

A. Yes.

* * * * * * * *

[296]

* * * * * * * *

Q. Was it within a month or two after you got the July [20th] letter from Mr. Hollander?

A. Yes, that's reasonable.

Q. And at whose request did you go back into your files?

A. Mr. McCook.

* * * * * * * *

Q. And in going back through your files at the request of Mr. McCook, what did you do?

A. Well, I went through all the—I went through my files looking for everything I had in connection with it.

Q. Did you go through all four file drawers?

A. Yes.

* * * * * * * *

[297]

* * * * * * * *

Q. Were the petroleum documents in American Samoa kept in one general file cabinet?

A. Yes, one four-drawer.

Q. And were they kept in any particular drawers in that four-drawer file cabinet?

A. No, they were commingled with other things.

Q. In that four-drawer file cabinet?

A. Yes.

Q. From the beginning, from the time that you talked to Mr. Hollander in 1969, had your files involving petroleum supply in American Samoa been kept in one four-drawer file cabinet, the cabinet you just described?

A. Yes. They had all been kept in one file.

Q. One file cabinet?

A. One file cabinet.

Q. Then when Mr. McCook asked you to go back through your files to look for documents involving petroleum

[298]

products, did you limit your search to the four-drawer file cabinet?

A. Yes.

Q. To one four-drawer file cabinet?

A. Yes.

Q. At that time did you pull out for Mr. McCook all the documents that you had in that particular four-drawer file cabinet relating to American Samoa?

A. I compiled everything that I could find that Mr. McCook asked me to find, asked me to look for. I compiled everything and stacked them up on the desk.

Q. Did you look in the folders of the documents that had been returned to you by Mr. Hollander?

A. Yes.

Q. Do you recall your prior testimony that in the other searches you would look in separate files, not the ones returned to you by Mr. Hollander, but in separate files to see if additional documents were returned to you?

A. Yes, I looked in unrelated—like the dredging and things like that.

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[301]

* * * * * * * *

Q. In your search for McCook did you look through files that did not relate to petroleum products in American Samoa?

A. No.

* * * * * * * *

[302]

* * * * * * * *

Q. In other words, is it fair to say that you went back through your four-drawer file cabinet and picked out everything you could find relating to petroleum in Samoa?

A. Yes.

Q. And you did that without regard to whether particular documents you delivered to Hollander or got back from Hollander or got back from Lynn or ones you got from anyone else?

A. Yes.

[303]

Q. And in the documents that related that you brought to McCook—

A. He asked me to take them down there, take them down and give them to—give to somebody by the name of Roger.

Q. Roger Nichols? Was Nichols an attorney with the firm of Kindel & Anderson?

A. Yes.

* * * * * * * *

Q. At any time did you deliver documents from your files to anyone other than Mr. Nichols at Kindel & Anderson?

A. No.

* * * * * * * *

[345]

* * * * * * * *

Q. Do you recall any discussion at all up until today with any lawyer from Kindel & Anderson concerning either the request by Mr. Hollander to you for documents or your turning over documents to Mr. Hollander or Mr. Hollander returning documents to you?

A. Yes, in the recital of the story from the beginning to the end about from the time Hollander contacted me—he said, "I want your file." I discussed all of that with these gentlemen.

Q. With whom?

A. With both Mr. Kane and Mr. Palmieri.

* * * * * * * *

Q. What did you tell them to the best of your

[346]

recollection concerning the turning over of documents in the government case to Mr. Hollander?

A. Well, I recited the story of him having called me, having come in and picked up the documents and taken them back to evaluate in Washington.

Q. I want you to tell me to the best of your recollection what you told Mr. Kane or Mr. Palmieri concerning the turning over of documents in the government case to Mr. Hollander.

A. Well, initially, when I got together with him, I said Mr. Hollander had requested my complete file and said that Governor Lee's file is incomplete and they would like to have my file, and so Mr. Hollander asked for an appointment, and Mr. Hollander came to my office and asked for my file. I opened the file drawers and took the file—no, I had already taken the stuff out, knowing that he was coming for that appointment, had it stacked up on the desk, and he took it all and put it into his briefcase or whatever he had, satchel, whatever he had, and said, "I will return all of these to you."

* * * * * * * *

[351]

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Q. I am going to show you now, Mr. Turnbull, the documents that Mr. McCook has produced in the present case, * * * the documents actually produced, not photocopies of them * * *

[352]

* * * * * * * *

Q. I am going to hand you Document 93 through 96. Do you have this document in front of you?

A. Yes.

* * * * * * * *

[353]

* * * * * * * *

Q. Is this one of the documents that was in your files at your office on Wilshire Boulevard?

A. Yes.

Q. Is this one of the documents that you delivered to Mr. Hollander?

A. I believe so.

* * * * * * * *

[355]

* * * * * * * *

Q. Was Document 93—

A. Same.

Q. —through 96 in your office at the time Mr. Hollander was there to pick up the documents?

A. Yes.

Q. And was it among the documents you turned over to Mr. Hollander?

A. I don't know. I am saying everything was back there for him to take, so it would be an assumption on my part that he took them.

Q. In-stacking up the documents for Mr. Hollander, did you stack up everything in your files relating to petroleum supplies in American Samoa?

A. Everything was stacked up, everything in my file relating to—

Q. And you recall your testimony earlier that the pile was more than six inches high?

[356]

A. Yes, sir.

* * * * * * * *

Q. Looking at Document No. 101, do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. Is this one of the documents that was in your files in October, 1969 when Mr. Hollander came to your office?

A. I'd say yes.

Q. And was this among the documents that you turned over to Mr. Hollander?

A. I don't know whether it was or not.

Q. Do you know if this document was excluded from the documents that were turned over?

A. This was part of my main file, and everything would have been available to Mr. Hollander.

Q. In other words, you have no recollection of this being excluded from Mr. Hollander?

A. No, it wasn't excluded.

Q. Turning now to Document 102, which is a copy of Document 101—

[357]

A. Same thing.

* * * * * * * *

Q. Was this among the documents in your files at the Wilshire Boulevard address in 1969?

A. Yes.

Q. And was this document among the files that you turned over to Mr. Hollander?

* * * * * * * *

A. It would have been available and on the table. Whether he took them or not I don't know.

Q. Was this document excluded from the files that you turned over to Mr. Hollander?

A. It would have been at his exclusion and not mine. Everything was available to him.

Q. Is Document No. 103 in front of you?

A. Yes.

* * * * * * * *

Q. Is this one of the documents you turned over to Kindel & Anderson?

A. Yes.

Q. Is this one of the documents in your files in October, 1969?

A. Yes.

[358]

Q. Is this one of the documents you turned over to Mr. Hollander?

A. They were available for him.

Q. And is this one—

A. Whether he took them or not, I don't know.

Q. Did he take everything on your desk?

A. I don't remember at this time.

Q. Did he look through some files on your desk and leave some documents there?

A. I can't answer that. I don't remember. I don't remember.

* * * * * * * *

Q. Did he make any selection of documents?

A. No, it wasn't a long-term, laborious treatment. My recollection was it was a very kind of hurried sweep, and he picked up everything he wanted, but how would he know, unless he took an hour?

* * * * * * * *

Q. When Mr. Hollander was at your office, did he exclude this document from the files?

A. I don't remember any specific exclusion or

[359]

acceptance of the documents by him.

Q. You don't remember him accepting the documents from those—

A. I don't remember.

Mr. Palmieri: You mean specific documents?

Mr. Klitgaard: Q. Yes. What I am asking you is, when Mr. Hollander was in the office, if he made a selection of documents to take. I would assume he would have to look at the documents to select the ones to take.

A. That is what I am telling you, I don't remember a great passage of time in the selection of the papers that he took.

* * * * * * * *

[360]

* * * * * * * *

Q. I am going to hand you a copy of Document No. 105-106. Have you seen this document in front of you?

A. Yes.

* * * * * * * *

[361]

* * * * * * * *

Q. Is this one of the documents that was in your files in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. It would have been put out with the rest of them. I don't know whether he took them or not.

* * * * * * * *

[362]

* * * * * * * *

Q. * * * Was your correspondence with Governor Lee in a separate file in your file drawers, separate drawer?

A. I don't remember.

* * * * * * * *

[367]

* * * * * * * *

Q. I would like to hand you Document No. 115. Do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. Was this one of the documents that was in your file in October, 1969?

A. Yes.

Q. And is it one of the documents you made available to Mr. Hollander?

[368]

A. Yes.

* * * * * * * *

[381]

* * * * * * * *

Q. * * * I would like to hand you Document 135. Do you have this document in front of you?

A. Yes.

* * * * * * * *

[382]

* * * * * * * *

Q. Is it one of the documents that was in your files in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

Q. Was installing a dock part of your plan for entering American Samoa?

A. It was planned, yes.

Q. Was your answer "Yes"?

A. Yes.

Q. Did you have any written correspondence with Mr. Schmuck at Dillingham?

A. Yes.

[383]

Q. I believe in the documents you produced yesterday there is one letter to Schmuck—

A. About dredging.

Q. Is there more than one letter to Mr. Schmuck?

A. Yes.

Q. And is there more than one letter involving petroleum products?

A. No.

* * * * * * * *

[385]

* * * * * * * *

Q. Did the dredging fall in line with your plan to supply petroleum products?

A. Only inadvertently, because we were talking about dredging, about opening up that lagoon near the airport. * * *

* * * * * * * *

[386]

Q. I am going to hand you Document 138. Do you have that document in front of you?

A. Yes.

* * * * * * * *

Q. Is it one of the documents that were in your files in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. Yes.

Q. I would like to hand you Document 139. Do you have that document in front of you?

A. Yes.

* * * * * * * *

Q. Is that one of the documents that was in your files in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

[398]

* * * * * * * *

Q. I hand you Document 159 and ask if you have this document in front of you?

A. Yes.

Q. There is some handwriting in the middle—

A. That's mine. It says "835 Fletcher." That was the price of oil from Fletcher.

* * * * * * * *

Q. And is this one of the documents you had in your files in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. I believe it was.

* * * * * * * *

[403]

* * * * * * * *

Q. I would like to hand you Document No. 165. Do you have Document 165 in front of you?

A. Yes.

* * * * * * * *

Q. Was it one of the documents in your file in October, 1969?

A. Yes.

[404]

Q. Was it one of the documents that you made available to Mr. Hollander?

A. I believe it was.

Q. You will see some handwriting on this document.

A. That is my secretary's. This is mine.

* * * * * * * *

Q. Everything except "Walker Shell Melbourne" is your handwriting?

A. Yes.

* * * * * * * *

[408]

* * * * * * * *

Q. I hand you Document 171. Have you seen this document before, sir?

A. Yes.

Q. Is this a letter from you to Mr. Shaw?

A. Yes.

* * * * * * * *

Q. Is it one of the documents that was in your file in October, 1969?

[409]

A. Yes.

Q. Is it one of the documents that you made available to Mr. Hollander?

A. I'm not sure.

* * * * * * * *

Q. Do you recall keeping this correspondence in your petroleum file?

A. Yes.

Q. Was your petroleum file one of the files you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

[413]

* * * * * * * *

Q. I am handing you 176. Do you have this in front of you?

A. Yes.

* * * * * * *

Q. Is it one of the documents that was in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. Yes. I said that specifically, because he wanted everything connected with any correspondence between me and him.

Q. In going through your file, did you try to search out for any correspondence between Governor Lee and yourself?

A. He had a great interest in my correspondence I had with Governor Lee.

Q. You did go through and search out—

A. Yes.

* * * * * * *

[414]

* * * * * * *

Q. I would like to hand you Document No. 177. Do you have this document in front of you?

A. Yes.

* * * * * * *

[415]

* * * * * * *

Q. You see it refers to Chicago Bridge and Iron. Is this one of the documents that was in your file in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. Yes.

Q. Whose handwriting is this down in the lower left-hand side?

A. That's mine.

* * * * * * *

Q. Did the handwriting have to do with supplying petroleum products to American Samoa?

A. Yes. * * *

* * * * * * *

[416]

* * * * * * *

Q. I would like to hand you Document 179. Do you have this document in front of you?

A. Yes.

* * * * * * *

Q. Is it one of the documents that was in your files in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. I don't recall whether I did.

* * * * * * *

[418]

Q. I would like to hand you Document No. 181. Do you have that document in front of you?

A. Yes.

* * * * * * *

Q. Is it one of the documents that was in your file in October, 1969?

A. Yes.

* * * * * * *

Q. And is this one of the documents you made available to Mr. Hollander?

A. I don't know whether it is or not.

* * * * * * *

Q. I would like to hand you Document 182. Do you have that document in front of you?

A. Yes.

* * * * * * * *

Q. Was this one of the documents that was in your

[419]

file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

[420]

* * * * * * * *

Q. I would like to hand you Document No. 188. Do you have this in front of you?

A. Yes.

* * * * * * * *

Q. Is it one of the documents that was in your files in October, 1969?

A. Yes.

Q. Is it one of the documents that you made available to Mr. Hollander?

[421]

A. Yes.

* * * * * * * *

[423]

* * * * * * * *

Q. I would like to hand you Document No. 192-194, and I will ask you, have you seen this document before?

A. Yes.

Q. Is this a letter from Mr. Johrde concerning the petroleum storage tanks in American Samoa?

A. Yes.

* * * * * * * *

Q. Was it one of the documents you had in your files in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. I don't know whether it was made available to him or not. I did not exclude him. I did not exclude it.

Q. From the files you delivered to him?

A. Yes.

Q. Did you have a file in your office in 1969 that was entitled "Chicago Bridge and Iron" or "Petroleum Storage Tanks"?

A. I think I did under "Storage Tanks."

Q. And in pulling documents for Mr. Hollander, did you pull the "Storage Tank" file for him?

A. That is the thing I don't remember, because at the time it could have been not connected other than the

[424]

tanks, which in my mind might not have been important to him.

Q. Do you recall whether or not you pulled that file for him?

A. I don't remember.

* * * * * * * *

[429]

* * * * * * * *

Q. I would like to show you Document 216 and 217 and ask you, do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. 216 and 217 is one of the documents that was in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

[434]

* * * * * * * *

Q. I would like to go out of order for just a minute and hand you Document 325. Do you have that?

A. Yes.

* * * * * * * *

[435]

* * * * * * * *

Q. Was it one of the documents that was in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

[439]

* * * * * * * *

Q. I hand you a Document 224. Do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. Is that one of the documents that you had in

[440]

your file in October, 1969?

A. Yes.

Q. Is that one of the documents you made available to Mr. Hollander?

A. I'm not sure.

* * * * * * * *

Q. I would like to hand you Document 225. Do you have this document in front of you?

A. Yes.

Q. 225 is a copy of 224. Do you see that?

A. Yes.

* * * * * * * *

Q. And did you get 225 from a different part of your file than you got 224?

A. I don't remember.

Q. Was 225 one of the documents in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. Yes.

Q. I would like to hand you Document 226. Do you have this document in front of you?

A. Yes.

[441]

* * * * * * * *

Q. Is it one of the documents that you had in your file in October, 1969?

A. Yes.

Q. Is it one of the documents you made available to Mr. Hollander?

A. I'm not sure.

* * * * * * * *

Q. I hand you Document No. 227, * * * Do you have 227 in front of you?

A. Yes.

Q. Is this one of the documents you delivered to Kindel & Anderson?

A. Yes.

Q. Which is a letter addressed to you from Mr. Shaw?

A. Yes.

Q. Was it one of the documents you had in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. I'm not sure.

* * * * * * *

[442]

* * * * * * *

Q. Why aren't you sure that you delivered this document to Mr. Hollander?

A. Well, I'm just not sure whether it came out of the folder.

Q. Is there any reason why you are not sure?

A. No, there isn't any reason why I would not have.

* * * * * * *

A. * * * It wasn't held back for any reason.

* * * * * * *

[446]

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Q. In collecting documents for Mr. McCook, did you check the same files that you looked in for Mr. Mussman?

A. Yes.

Q. Did you look through any additional files for Mr. McCook?

A. Not that I know of.

[447]

* * * * * * *

Q. This document [228] was in your files in October, 1969?

A. Yes.

Q. And is it one of the documents that you made available to Mr. Hollander?

A. Yes.

* * * * * * *

[448]

* * * * * * *

Q. I would like to direct your attention to Document 229. Do you have this document in front of you?

A. Yes.

* * * * * * *

[449]

* * * * * * *

Q. Is it one of the documents that was in your file in October, 1969?

A. Yes.

Q. Was it one of the documents that you made available to Mr. Hollander?

A. Yes.

* * * * * * *

[453]

* * * * * * *

Q. In checking your files for petroleum products in October of 1969, did you go through those files and pull out any documents that you withheld from Mr. Hollander?

A. That I withheld?

Q. Yes.

A. I don't remember. Mr. Hollander, as far as I remember, Mr. Hollander had access to everything I had. Now, if I excluded anything, it wouldn't have been by design. It would have been oversight on my part pulling it out. That is—

* * * * * * * *

Q. You collected the files; do you recall that?

A. Yes, I collected them.

[454]

Q. You put them on your desk. Before Mr. Hollander got to your office, did you go through the files and pull any documents out of them?

A. No.

* * * * * * * *

Q. I would like to hand you Document 237 and 238. Do you have this document in front of you?

A. Yes.

[455]

Q. Have you seen this document before today?

A. Yes.

* * * * * * * *

Q. Is it one of the documents that you had in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. I am not certain I did, but I would not have kept it from him. It would have been—he went through and passed over it.

Q. Passed over by him?

A. Yes.

Q. Was this Document 237 prepared by you initially?

A. Yes.

Q. I would like to hand you Document 238. Did you type it up initially?

A. Yes.

* * * * * * * *

Q. At the top we have a handwritten note that says "Drafted McCook proposal by Turnbull."

A. That's my handwriting.

* * * * * * * *

[456]

* * * * * * * *

This was a draft of a letter carrying certain pertinent information here, and the draft—I drew the draft. It went to McCook, and you will see all these other X-outs and deletions and changes in this thing—they were done by McCook.

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[461]

* * * * * * * *

Q. I hand you Document 239-240. Do you have this document in front of you?

A. Yes

* * * * * * * *

Q. Was it one of the documents in your files in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. I'm not sure. I would not have excluded him

[462]

from it. He was not excluded from it, but I can't tell you whether I—

Q. Do you recall whether you excluded it from Mr. Hollander?

A. —did I not deliver it to him?

Q. [I]n going through your files, in collecting the documents for him, did you exclude this particular document?

A. No.

* * * * * * * *

[465]

* * * * * * * *

Q. I would like to hand you Document 243. Do you have Document 243 in front of you?

A. Yes.

* * * * * * * *

[466]

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Q. Where did you get this Document 243?

A. I don't know where it came from unless it came from the dredging file, I guess. There isn't anything there about oil. It is just a straight dredging—

Q. In collecting documents for Kindel & Anderson, did you look through your dredging file?

A. I guess I did. I don't remember pulling that.

Q. Was this one of the documents you delivered to Kindel & Anderson?

A. Yes.

Q. Was it one of the documents you had in your files in October, 1969?

A. Yes.

Q. Was this one of the documents that you made available to Mr. Hollander?

A. Yes.

* * * * * * * *

[467]

* * * * * * * *

Q. * * * Did your plan for dredging of the Nu'uuli Lagoon include the eventual installation of storage tanks at that location?

A. The possibility of it. * * *

Q. Was the dredging of Nu'uuli Lagoon for use for tankers to bring in oil products to American Samoa one of the subjects you discussed from time to time with Governor Lee?

A. It was the place to refuel the fishing boats if it turned out that way, but to put—bring in there, and they could lay offshore and put into the tanks.

Q. The petroleum storage tanks?

A. Yes.

Q. And was that a subject you discussed with Governor Lee from time to time?

A. That's right, yes.

* * * * * * * *

[471]

Q. I would like to direct your attention back, sir, to Document 246. Do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. Directing your attention now, sir, to the letter dated February 19, 1971 to you from Mr. Lynn on which you refer at the bottom in your handwritten notation to Bill's letter of October 5, 1965, do you see that?

A. Yes.

Q. Lee refers to Bill's letter of October 5, 1965.

A. Yes.

Q. "Still interested." Is this letter here, 246, the letter that you are referring to when you made this notation on Document 1199?

A. Yes.

Q. Was Document 246 among the documents in your

[472]

file in October, 1969?

A. Yes.

Q. And was it among the documents that you made available to Mr. Hollander?

A. I'm not sure.

* * * * * * * *

Q. You see the document is addressed to Governor H. Rex Lee?

A. Yes.

Q. Did you have any copies of Document 246 in your files?

A. Not that I remember.

* * * * * * * *

[473]

* * * * * * * *

Q. Without regard to whether this particular Document 246 was in your files in October, 1969, did you have some copy of the October 5, 1965 letter from McCook to Lee in your files?

A. Would you repeat that? Just the last question.

Mr. Klitgaard: Read it back, please.

(The pending question was read by the reporter.)

* * * * * * * *

A. * * * Do you mind me making a statement on this thing?

Q. Referring to the writing?

A. I am referring to Bill's letter of October 5.

Q. That is the same letter we have marked—

A. That is the same letter, I will admit. Where I got this letter is the only thing I am questioning on, is where I got that letter, whether I got it from Bill McCook, whether I got it from Lynn, whether I had it in my file, I don't know.

* * * * * * * *

[477]

* * * * * * * *

Q. Is this [246] one of the documents you turned over to Kindel & Anderson?

A. I'm going to say yes, because I could have. That's all. I can't say I didn't. I am familiar with this thing because I had already referred to it in something else, so I had seen it.

* * * * * * * *

A. That's what I'm telling you. I had seen the document. Outside of that, I became aware of it because I am referring to it in my own handwriting on the back of the letter.

Q. Let's take the simple part first.

A. I don't know whether Lynn had it or—

Q. Let's go back to the very beginning. In February of 1971 you referred to a letter dated October 5, 1965?

A. I don't know whether I did or not. This is the February 9 letter, and this comes up here in which I am referring back to a letter dated October 5.

[478]

Q. * * * Will you look at Document 1199?

A. Yes.

Q. Down at the bottom there are a number of lines written in in your handwriting?

A. That's right.

Q. Among those lines do you see the last line that refers to Bill's letter of October 5?

A. Yes.

Q. It was your earlier testimony that you put that handwriting on here sometime in February or March of 1971.

A. I don't remember testifying about the date I put it on. I said this was a request Jones had to have some other further thing on it. I told you I didn't know when I put it on.

Q. Well, you put it on after you received the letter, did you not?

A. I put it on after '71.

Q. You mean after February of 1971?

A. Now, when I put it on afterwards, I can't tell you.

Q. More than a year?

A. I can't tell you when.

* * * * * * * *

[481]

* * * * * * * *

A. All right, say it again? What was the time period?

Q. In February or March—

A. February or March. Yes, I will have to change it, because I had no way of measuring it.

Q. Coming forward, did you put your handwriting on the bottom of 1199 in connection with your collection of documents for Kindel & Anderson in the present McCook Case?

A. I'm going to have to beg off on tying it down.

Q. Let me ask in a broad, general way. Do you recall putting this handwriting in blue on the bottom of 1199 in connection with the preparation of the present McCook case, * * * as opposed to some prior time in 1971?

A. No. I wouldn't have done this after the setting of what this matter—in answer to this thing. I'm going to have to—and I'm being honest with you—I'm going to have to leave it at I don't know when I did it. It is an obvious answer to this.

Q. At Mr. Lynn's request—

A. It was an obvious answer. That's all I know.

* * * * * * * *

[482]

* * * * * * * *

Q. Now, sir, going back to Document 246 * * *. Is this one of the documents that you delivered to Kindel & Anderson?

A. I'm going to have to change it again and say no, because remember, when you first pulled it out, I said I didn't ever remember having a yellow thing in my files, and I said I could have had it. I could have had it from Lynn. I could have had it from Bill. McCook had sent me something, but it wasn't a normal thing for him to send me a copy of his things, than for me to send him a copy of mine.

Q. In connection with Document 246 did you have a photocopy of this document or another copy of this document in your files at any time?

A. No.

Q. I would like to hand you Document 247. Do you have Document 247 in front of you?

[483]

A. Yes.

Q. Is this one of the documents you delivered to Kindel & Anderson?

A. (No response.)

Q. I am going to hand you again, sir, Document 1199, which has the blue handwritten notations down at the bottom. Do you see on 1199 there is a statement in the bottom line again, "Lee-McCook refers to Bill's letter of October 5, 1965 still interested"?

A. Yes.

* * * * * * * *

[484]

* * * * * * * *

In preparing this notation in handwriting on 1199, were you referring to this letter here which is 247?

A. I could have been, very well could have been.

Q. Well, do you recall?

A. That is the only way it makes sense.

Q. Do you know of any other letter?

A. Not of October 5.

* * * * * * *

[494]

* * * * * * *

Q. Were Documents 263 to 268 in your files in October, 1969?

A. In '69?

Q. Yes, sir.

A. Yes, sir.

Q. Were Documents 263 to 268 among the documents you made available to Mr. Hollander?

A. Yes.

* * * * * * *

[505]

[November 26, 1975]

RAYMOND C. TURNBULL,

having been previously duly sworn, testified further as follows:

EXAMINATION (Resumed)

By Mr. Klitgaard:

* * * * * * *

[522]

Q. Have you looked through your office now or your drawer of your file, wherever you presently keep documents to make sure you produced for us here all documents in your control relating to petroleum supply in American Samoa?

A. I have.

Q. Including all copies of everything?

A. Everything.

Q. Is your answer "Yes"?

A. Yes.

* * * * * * *

[523]

* * * * * * *

Q. I would like to hand you Document 1298 through 1318. Do you have this document in front of you?

A. Yes.

Q. This document is entitled "Plan for Compliance for Judgment of United States District Court with Respect to Usage of the Petroleum Storage Facilities in American Samoa." Do you have that—

A. Yes.

* * * * * * *

[529]

* * * * * * *

Q. Did you make any comments to Mr. Hollander or anyone at the Department of Justice concerning the plan proposed for sharing the petroleum storage facilities in American Samoa?

A. I talked to somebody. I talked to somebody about it. I talked to somebody about it. I don't know whether it was Hollander or in fact—I made— in fact, I made

[530]

a—I talked to—yeah, I did talk to somebody.

Q. Somebody at the Department of Justice?

A. I believe it was, yes.

* * * * * * *

Q. How long ago was it that you talked to him?

A. I can't tell you.

* * * * * * * *

It had something to do—had something to do with—

Q. The plan for sharing petroleum facilities?

A. It had something to do with it.

Q. Are you referring to the plan 1361 to 1397?

A. Yes.

* * * * * * * *

A. * * * the plan, that I didn't go along with the plan, and so if I remember correctly, I put in a proposal.

[531]

I remember now. I did write a letter and—

Q. To whom?

A. Where would it have gone? To—It may have been Judge Conti's office, whoever was—whoever was—wherever I was supposed to send it, suggesting that we would be interested in coming back, and then going ahead on what I thought the way it should be handled, and I didn't think much of the Standard proposal—

* * * * * * * *

Q. Who is "we"?

A. Well, it would have been Bill McCook, if it had made any sense, because I didn't have the money, obviously.

Q. What did you tell Judge Conti was wrong with the proposed plan?

A. Well, I didn't —I—I didn't think it made any sense in the beginning, because it was sharing tanks and—which any competitor would be basically at the mercy of the Standard Oil Company bookkeeping alone, and I proposed that Standard Oil be divested of 50% of its business and start from scratch and suggested we put in new tanks, and that's the way we would want to come into it.

I forget exactly everything that was in it, and I proposed also that the whole thing be taken out of Pago Harbor and put into Nu'uuli Lagoon, if it made any sense, and if the native land could be acquired and the natives could approve it, the native Government.

Q. Anything else that you told Judge Conti?

[532]

A. Well, no, it was just a proposed—what would sound interesting to us.

* * * * * * * *

[533]

* * * * * * * *

Q. Do you have a copy of that proposal that you sent to Judge Conti?

A. No.

Q. Did you send that proposal to Mr. Hollander or to anyone at the Department of Justice?

A. I don't remember. However, I talked to—I sent it to—I think it went to Judge Conti. Judge Conti's Court—I'm not sure.

* * * * * * * *

[534]

* * * * * * * *

Q. Did you receive a response from whomever you sent that proposal to?

A. I don't recall.

Q. Do you have a copy of that proposal now?

A. No.

* * * * * * * *

EXAMINATION (Resumed)

* * * * * * * *

[682]

* * * * * * * *

Q. I would like to hand you, sir, Document 276 through 296. Do you have this document in front of you?

A. Yes.

Q. You will see that this is a packet of documents stapled together entitled "contents" on the first page.

A. Yes.

* * * * * * * *

Q. Was it one of the documents that was in your files in October, 1969?

A. What is—

Q. October, 1969 was the time when Mr. Hollander came to see you.

A. Yes, I believe it was.

Q. Was it one of the documents that you made available to Mr. Hollander?

A. I don't know whether I did or not.

* * * * * * * *

[707]

* * * * * * * *

Q. I would like to hand you Document 320. Do you have this document in front of you, sir?

A. Yes.

* * * * * * * *

Q. Was it one of the documents that you had in your file in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

A. I believe it is.

* * * * * * * *

[743]

[December 1, 1975]

RAYMOND C. TURNBULL,

having been previously duly sworn, testified as follows:

* * * * * * * *

EXAMINATION (Resumed)

* * * * * * * *

[884]

* * * * * * * *

Q. I would like to hand you Document 505. Is that your handwriting, sir?

A. It is all my handwriting.

* * * * * * * *

Q. Was it one of the documents that was in your file in October, 1969?

A. I believe it was.

Q. Was it one of the documents that you made available to Mr. Hollander?

A. It may not have been available to Mr. Hollander. It may have been in a different file.

* * * * * * * *

[888]

* * * * * * * *

Q. Was 505 kept in any particular file in your office Mr. Turnbull?

A. Could have been in the dredging file. Everything about it is dredging.

Q. Can you think of any other file that it might have been in?

A. No.

* * * * * * * *

[891]

* * * * * * * *

Q. I would like to hand you Document 507. * * *

* * * * * * * *

Q. Is it one of the documents, sir, that was in your files, sir, in October, 1969?

A. I believe it was.

Q. Was it one of the documents that you made available to Mr. Hollander?

A. I don't—I don't believe it was. This is from the dredging file.

Q. Do you recall just a minute ago you showed us Document 506 which was in the dredging file and 505 which you thought was in the dredging file, and I ask, sir, why it is that you made the statement that you didn't deliver that document to Mr. Hollander?

A. It was in the dredging file to start with, and I don't see any references on the thing to any oil products anywhere.

* * * * * * * *

[906]

* * * * * * * *

Q. If Mr. Lynn had this document 507 in his files, do you know where he would have got the document if not from you?

A. I do not.

* * * * * * * *

[907]

* * * * * * * *

Q. I would like to hand you, sir, Document 508. Do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. Is it one of the documents that you had in your files in October, 1969?

A. Yes.

* * * * * * * *

[908]

* * * * * * * *

Q. Is Document 508 one of the documents that you delivered to Mr. Lynn?

A. No recollection.

Q. Do you know where Mr. Lynn got Document 508 if he did not get it from you?

A. No recollection.

* * * * * * * *

[909]

* * * * * * * *

Q. Do you see, sir, the reference in item 3 to petroleum products?

A. Petroleum products, yes.

Q. And there are another few words after that. Can you read those for me?

* * * * * * * *

A. Petroleum products. "Another Samoan"—it looks like the word tie-in.

* * * * * * * *

[910]

* * * * * * * *

Q. Are these notes that you prepared before meeting with Governor Lee for the purpose of having the meeting with Governor Lee?

A. Very likely, I would say, yes.

* * * * * * * *

[911]

* * * * * * *

Q. Did the meeting occur before the time that you left American Samoa in May or June of 1965?

A. Oh, yes.

* * * * * * *

[914]

* * * * * * *

Q. Was 511-512 one of the documents that you delivered to Mr. Lynn?

A. No recollection.

Q. Do you know where Mr. Lynn would have gotten 511-512 if not from you?

A. I don't know where he would have got it, no.

* * * * * * *

[918]

* * * * * * *

Q. * * * Do you have 515 in front of you?

A. Yes.

* * * * * * *

Q. Is it one of the documents that was in your files in October, 1969?

A. '69, you say?

Q. Yes, sir.

A. I'm not sure, but I believe it was.

* * * * * * *

Q. Was it one of the documents that you delivered to Mr. Lynn?

A. No recollection of delivering it to Mr. Lynn.

Q. Do you know where Mr. Lynn got document 515 if he didn't get it from you?

A. No, I don't.

[919]

* * * * * * *

Q. Do you see Document 516?

A. Yes.

[920]

Q. Is that your handwriting on 516?

A. All of it, yes.

* * * * * * *

Q. Is it one of the documents that you delivered to Mr. Lynn?

A. No recollection.

* * * * * * *

[921]

* * * * * * *

Q. Do you know where Mr. Lynn got this document 516 if he didn't get it from you?

A. I don't even know that he had it.

* * * * * * *

Q. Do you know where he would have gotten— * * * it if not from you?

A. No, I don't.

* * * * * * *

[933]

* * * * * * *

Q. I would like to hand you Document 526. Do you have that document in front of you?

A. Yes.

* * * * * * *

[934]

* * * * * * *

Q. It that one of the documents you had in your file, sir, in October, 1969?

A. I believe it was.

* * * * * * * *

Q. Is 526 one of the documents you delivered to Mr. Lynn?

A. No recollection.

Q. Do you know where Mr. Lynn got a copy of Document 526, if not from you?

A. No.

* * * * * * * *

[1012]

[December 2, 1975]

RAYMOND C. TURNBULL,

having been previously duly sworn, was further examined and testified as follows:

EXAMINATION (Resumed)

By Mr. Klitgaard:

* * * * * * * *

Q. Did you bring with you this morning the file folder from which you extracted the documents produced at your deposition last week?

A. Yes.

* * * * * * * *

* * * * * * * *

[1016]

* * * * * * * *

Mr. Klitgaard:

Document No. 1638 is a file entitled "P.C.P.C. — General Letters File."

* * * * * * * *

The next file that we have numbered is a file folder entitled "Pacific Coconut Info." The number on this file folder is 1641.

[1017]

The next file folder is Document 1642. This file folder is entitled "Miscellaneous Correspondence R.C.T."

The next file folder is 1643. This is entitled "Pago—Plant Dock Prints Walker-Moody Co."

The next file folder is Document 1644. This folder is entitled "Mobil Petroleum Corporation Correspondence."

The next file folder is No. 1645. This folder is entitled "Unoco Correspondence and Survey."

The next file folder is 1646. This file folder is entitled "Summit Industrial Corporation Correspondence."

The next file folder is No. 1647. This is entitled "Petroleum—Confidential/Bank of America—P.C.P.C."

The next file folder is entitled "Correspondence—Gov. Lee Year 1965." This file folder is 1648.

Finally, the 10th file folder is entitled "Original Lease and Lease Agreement—GAS."

* * * * * * * *

[1020]

* * * * * * * *

Mr. Klitgaard: Q. Where did you locate these 10 file folders which you produced this morning?

A. In my bottom drawer of my desk.

Q. Do you have any other file folders at your home or in your files that relate to petroleum products in American Samoa?

A. Didn't find any.

* * * * * * * *

[1022]

* * * * * * * *

Q. And have you produced for us all the petroleum documents that you have?

* * * * * * * *

[1023]

A. Yes.

* * * * * * *

Q. Did you have these file folders in your office on Wilshire Boulevard in 1969?

A. Yes.

* * * * * * *

[1024]

* * * * * * *

Mr. Klitgaard: Q. Did you have any file folders in your office in 1969 that referred to petroleum products in American Samoa other than the file folders that you have produced here this morning?

A. Yes, I did.

* * * * * * *

[1025]

* * * * * * *

Q. From 1969 until the time that you moved your office from Wilshire Boulevard to your home, did you throw away any file folders in your desk drawers or in your files?

A. I don't remember having destroyed any.

* * * * * * *

[1029]

* * * * * * *

Q. I will hand you file No. 1638. Is that one of the files that you made available to Mr. Hollander in October, 1969?

A. I don't have any recollection of it.

Q. I will hand you file No. 1641. Is that one of the files that you made available to Mr. Hollander in October, 1969?

A. I have no recollection of having delivered it to Mr. Hollander.

Q. I will hand you file 1642. Is that one of the files that you made available to Mr. Hollander in 1969?

A. It may have been, but I have no recollection of it specifically or generally.

Q. I will hand you file No. 1643. Is that one of the files that you made available to Mr. Hollander in 1969?

A. No, I don't believe so.

Q. Why do you say you don't believe so?

A. Because I don't—I don't remember holding out any —bringing out any Walker-Moody documents concerning plants. It was of no import unless it was tied to petroleum.

* * * * * * *

Q. Are you saying that you didn't deliver any of

[1030]

the contents of this file 1642?

A. I said I don't know whether I did or not. I have no recollection of it.

Q. I hand you file 1644. Is that one of the files you delivered to Mr. Hollander?

A. I wouldn't have handed him a file—

Q. What is the title on that file, sir?

A. "Mobil Petroleum Corporation Correspondence."

Q. What did you hand him with regard to Mobil Petroleum correspondence?

A. I don't remember what I handed him in accordance with it. The contents of it he may have got. I don't remember.

Q. Is it your testimony that you don't remember delivering to him this particular file?

A. I don't remember giving him the file, no.

Q. * * * I would like to hand you file 1645. Did you give that particular file folder to Mr. Hollander?

A. I have no recollection of giving it to Mr. Hollander.

Q. Did you give the contents of that file folder to Mr. Hollander?

A. I may have.

Q. Did you give any file folders to Mr. Hollander?

A. I don't know whether I did or not.

Q. I will remind you, sir, in the first day of your deposition you said that you did give file folders to Mr. Hollander. Do you wish to change that testimony?

[1031]

* * * * * * *

A. I told you I brought everything out and put it on the desk.

Q. When you say "everything," what were you referring to?

A. I'm talking about everything that I figured had anything to do with petroleum.

Q. Did you pull out file folders and put them on the desk in front of Mr. Hollander?

A. I may have. I don't know.

Q. Did you pull out documents separate from the file folders and put them on the desk?

A. I believe I did.

Q. Do you recall giving Mr. Hollander any documents in a file folder?

A. No, I don't specifically or generally—I do not remember.

* * * * * * *

[1033]

* * * * * * *

Q. I am going to hand you Document 1646. What is the title of that file?

A. "Summit Industrial Corporation Correspondence."

Q. Is that one of the file folders that you delivered to Mr. Hollander?

A. I don't have any recollection of this specific one.

Q. Do you recall delivering that specific file folder to Mr. Hollander?

A. No, I don't remember.

* * * * * * *

[1040]

* * * * * * *

Q. Sir, I would like to direct your attention to Document 1647. Do you have that file folder in front of you?

A. Yes.

Q. What is the title on that folder?

A. "Petroleum — Confidential / Bank of America — P.C.P.C."

Q. Did you deliver that particular file folder to Mr. Hollander, sir?

A. I don't remember having done so.

* * * * * * *

[1056]

* * * * * * *

Q. Sir, yesterday you referred to a dredging file in which you obtained documents. Do you recall the reference to the dredging file?

A. Yes.

Q. Which one of these files that you brought with you here today, sir, is the dredging file?

A. I don't see any dredging file. * * *

Q. Did you see the dredging file last night among the folders in your desk?

A. No, I didn't.

Q. When was the last time you saw the dredging file?

A. I can't recall.

Q. Was it more than a year ago?

A. I can't recall.

* * * * * * * *

[1077]

* * * * * * * *

Q. Was it [1178-1180] one of the documents you had in your files in October, 1969?

A. I would have had it in my files in 1969.

Q. Was it one of the documents, sir, that you made available to Mr. Hollander?

A. I have no recollection of having made it available to Mr. Hollander.

* * * * * * * *

[1086]

* * * * * * * *

Q. Was [1183] it one of the documents you had in your files in October, 1969?

A. Yes.

Q. Was it one of the documents you made available to Mr. Hollander?

[1087]

A. I don't recollect having made it available to him.

* * * * * * * *

[1091]

* * * * * * * *

Q. Was it [1185-1187] one of the documents that you had in your file in October, 1969?

A. I believe it was.

Q. Was this one of the documents that you made available to Mr. Hollander?

A. I have no recollection of making it available to Mr. Hollander.

* * * * * * * *

[1098]

* * * * * * * *

Q. Was it [1188] one of the documents in your file in October, 1969?

A. I believe it was.

* * * * * * * *

Q. Was this one of the documents that you made available to Mr. Hollander?

A. No recollection of having made it available to Mr. Hollander.

* * * * * * * *

[1103]

* * * * * * * *

Q. Is it [1192-1197] one of the documents you had in your files in October, 1969?

A. Yes.

Q. Was it one of the documents that you made available to Mr. Hollander?

A. I don't recall giving it to Mr. Hollander.

* * * * * * * *

[January 28, 1976]

[1245]

RAYMOND C. TURNBULL,

having been previously sworn, testified as follows:

EXAMINATION (Resumed)

By Mr. Klitgaard:

* * * * * * * *

[1311]

* * * * * * * *

Q. Are you satisfied you produced for us now all the documents concerning American Samoa?

A. (No response.)

Q. Beg your pardon?

A. Yes.

* * * * * * * *

d. DEPOSITION: MARCH 29, 1976: SULLIVAN, JONES & ARCHER

United States District Court for the
Central District of California

(Title omitted in printing)

* * * * * * * *

[3]

LYLE L. JONES,

a witness herein, called by the defendant Standard Oil Company of California, and being first duly sworn, testifies as follows:

Examination by Mr. Klitgaard:

Q. Would you state your full name.

A. Lyle L. Jones.

Q. Your present address?

A. Sullivan, Jones and Archer, 600 B Street, Suite 1400, San Diego, California 92101.

Q. Is Sullivan, Jones and Archer a law firm?

A. Yes, it is.

Q. Is it a partnership?

A. Yes.

Q. Are you one of the general partners?

A. No—I am of counsel to the firm.

Q. You are appearing here today pursuant to Subpoena Duces Tecum on behalf of Sullivan, Jones and Archer?

A. Yes, I am.

* * * * * * * *

[32]

* * * * * * * *

Q. I would like to hand you now SDX-4725, which is an envelope dated August 15, 1970, from Raymond C. Turnbull to Lyle L. Jones. Do you have this document in front of you?

A. Yes.

* * * * * * * *

Q. At the lower left-hand side of the address label on

[33]

this envelope do you see the words, "ATT: Mr. Lynn"?

A. Yes.

Q. It that your handwriting?

A. No.

Q. Do you know whose handwriting it is?

A. I can only assume it came from Mr. Turnbull. May I explain the circumstances of this?

Q. Yes, certainly.

A. Mr. Lynn, who was attorney for Mr. Turnbull, made an appointment with us, and I told him to bring down—or perhaps Jim Sullivan talked to him; I am not sure—to bring down whatever documentation he had, and he had Mr. Turnbull send this package of documents to him at our address at the time he was coming down for an interview.

Q. In other words, Mr. Lynn asked Mr. Turnbull to send documents to Mr. Lynn care of your address here in San Diego?

A. That is right, and I think it was at the time of the first interview he had with us—I am not sure.

* * * * * * * *

[56]

* * * * * * * *

Q. On August 19, 1970, you sent a set of Xerox copies of documents to Mr. Lynn—correct?

A. Yes.

Q. And those were copies of the documents that were given to you by Mr. Turnbull?

A. I presume so, from this letter.

* * * * * * *

[82]

* * * * * * *

Q. Did you return documents to Mr. Lynn—either photocopies or originals—on any occasion other than the August 19, 1970 letter?

A. To the best of my knowledge, the only transmittal of documents to Lynn were reflected in that correspondence that we mentioned before.

Q. In the August 19, 1970, letter?

A. Yes.

* * * * * * *

•. DEPOSITION: MARCH 29, 1976: LYLE L. JONES

United States District Court for the
Central District of California

(Title omitted in printing)

* * * * * * *

[3]

LYLE L. JONES,

a witness herein, called by the defendant STANDARD OIL COMPANY OF CALIFORNIA, and being first duly sworn, testifies as follows:

EXAMINATION BY MR. KLITGAARD:

Q. State your full name, please.

A. Lyle L. Jones.

Q. Your business address?

A. 600 B Street, Room 1400, San Diego, California.

* * * * * * *

Q. Are you appearing here today pursuant to Subpoena Duces Tecum served upon you as an individual?

A. I am.

* * * * * * *

[7]

* * * * * * *

Q. I'm going to hand you document 436, which is a copy of the letter dated August 19, 1970, from you to Mr. Lynn. Do you see that?

A. Yes.

Q. And this is a document that we discussed in the deposition earlier today concerning Sullivan, Jones and Archer. Do you recall that?

A. Yes.

Q. Now, you see here the statement in the first sentence, "Enclosed for you[r] file is a set of the Xerox copies of the documents forwarded to us by Mr. Turnbull"?

A. Yes.

* * * * * * *

[15]

* * * * * * *

Q. Now, having looked through 4766 in the photocopy file through 4834 in the photocopy file, do you recognize that set, 4766 through 4834, as a Xerox set of the documents which you sent back to Mr. Lynn on August 19, 1970?

A. I am quite sure that is the case.

* * * * * * *

[19]

* * * * * * *

Q. At any time did Mr. Hollander or anyone at the Department of Justice send you a copy of documents TU-1 to TU-100?

A. Never.

Q. At any time did anyone at all send you a copy of documents TU-1 to TU-100 of that set?

A. Well, I think there's some in there that are marked, so I have received whatever is in there.

Q. But apart from what you produced at your deposition today, have you at any time received any set of documents TU-1 to TU-100?

A. No.

• • • • • • • •

[24]

• • • • • • • •

Q. Do you recall that the deposition of Mr. McCook was taken on March 23, 1971?

A. • • • [Y]es.

Q. • • • [D]id you have a meeting with Mr. McCook or Mr. Lynn immediately following his deposition?

A. Yes, I did.

Q. By "his deposition," I mean immediately following the McCook deposition.

A. Yes.

Q. Where did that meeting take place?

• • • • • • • •

[25]

• • • • • • • •

A. • • • My meeting with them was very close to his [Lynn's] office, but in a hotel, and we sat in the lobby, and I think we went into the bar and had one drink, and the interview was not very informative, and I still didn't know the answers to the questions that I really wanted the answers to.

Q. These are the questions raised in your letter of January 26, 1971?

A. Yes.

Q. Who was present at the meeting?

A. Well, I think at first—well, I don't know. • • •

Q. Let me refresh your recollection. On March 23, 1971, Standard took the deposition at 9:15 a.m. of Richard B. Lynn, and then at approximately 10:30 a.m. that same morning it took the deposition of William R. McCook, and it was finished with both depositions at sometime around noon on March 23, 1971. Mr. Turnbull was not deposed that day.

A. All right.

• • • • • • • •

Then I think I met both of those gentlemen the first time there that day.

[26]

Q. You met both Turnbull and McCook?

A. I think so. Now, I may be wrong about that, but that is my present recollection. I thought that if McCook was deposed and Turnbull was not, I think I met Turnbull first and talked to him for about an hour, and then when the deposition was over I think that McCook joined the conversation, as did Lynn • • •

Q. In talking with Mr. Turnbull at first, did Mr. Turnbull have with him any documents?

A. No.

• • • • • • • •

[42]

• • • • • • • •

Q. I would like to hand you now document 425. Do you have that document in front of you?

A. Yes.

Q. Do you see this is a telegram dated April 23, 1971, from Mr. Lynn to Mr. Mussman?

A. Yes.

• • • • • • • •

[43]

• • • • • • • •

Q. Prior to sending this letter of April 23, 1971, to

[44]

Mr. Mussman did Mr. Lynn contact you at any time, going back as far as you can remember, to find out if you had gotten any additions to your file to TU-1 to 100 in your files in San Diego?

A. Not to my recollection.

• • • • • • • •

Q. * * * [I]n the present case I asked Mr. Lynn at his deposition on October 14, 1975 the following question referring to page 121 of the transcript, starting at the top:

> "Question: In connection with sending this telegram, it is your testimony that you did not go out physically to the Turnbull and
>
> [45]
>
> McCook offices and look at whatever files may have been in the file drawers in those offices?
>
> "Answer: That's correct.
>
> "Question: Did you contact Mr. Turnbull and Mr. McCook concerning any additional documents?
>
> "Answer: I'm sure that I contacted both of them with a final request that they tell me that in there, to the best of their knowledge and belief, there was nothing further that had not already been produced.
>
> "Question: Their answer was they did not?
>
> "Answer: And their answer was they did not."

Now, turning to your firm at line 14—do you see line 14?

A. Yes.

> Q. "Question: Did you also make the same request to the Sullivan firm in connection with this telegram?"

Do you see that?

A. Yes.

> Q. "Answer: I am quite sure I did.
>
> "Question: Was their answer the same?
>
> "Answer: Their answer was the same."

Now, do you see that part of the transcript?

A. Yes.

Q. I am asking you now, Mr. Jones, to search your recollection to the best of your knowledge. I'm going to ask you, having reviewed this testimony by Mr. Lynn, do you have any [recollection]

[46]

of Mr. Lynn having contacted you prior to sending this telegram of April 23, 1971, to find out if you had any documents in your files in addition to TU-1 to 100?

A. I have none whatever—no recollection.

Q. Do you have any recollection of anyone reporting to you in your firm that they had been contacted by Mr. Lynn concerning additional documents other than TU-1 to 100 prior to April 23, 1971.

A. No.

• • • • • • • •

Q. If the request had been made would you have searched your files?

A. Certainly.

Q. And if you found documents in addition to TU-1 to 100 would you have sent them to Mr. Lynn?

A. Certainly.

Q. Are you aware as of today there are documents in your files in addition to TU-1 to 100?

A. I gathered that from what we have seen this

[47]

morning.

* * * * * * * *

Q. Now, directing your attention to pages 104 and 105 of the Lynn deposition, starting at line 18:

> "Question: Did Mr. Hollander discuss this particular request with you as embodied in this letter of April 3, 938, 939?
>
> "Answer: I'm sure we discussed the text of this.
>
> "Question: Do you recall what Mr. Hollander said?
>
> "Answer: To the best of my recollection, Mr. Hollander said that he would be in touch with Mr. Mussman, and I indicated that I would do the same, and I am sure that I at that point indicated that I would contact the San Diego firm, and again contact Mr. Turnbull and Mr. McCook."

Do you see that part of the transcript?

A. Yes.

Q. And going on, on page 105:

> "Question: You
>
> [48]
>
> indicated this to whom?
>
> "Answer: To Mr. Hollander.
>
> "Question: Did you in fact contact the San Diego firm again after this April 3 letter?
>
> "Answer: I am sure I did.
>
> "Question: Did you ask them if they had any documents in addition to the ones that had been produced?
>
> "Answer: I'm sure I did.
>
> "Question: What was their response?
>
> "Answer: And their response was that they had none."

Do you see that testimony?

A. Yes.

Q. Now, having reviewed this testimony at pages 104 and 105 of the October 14 deposition of Mr. Lynn, do you now recall any contact from Mr. Lynn after this April 3, 1971, letter concerning any documents in your files in addition to TU-1 to 100?

A. I have no recollection.

Q. No recollection of any contact?

A. I am quite sure he did not call me.

Q. Was it ever reported to you that he had contacted anyone else in your firm?

A. No, it was not. If he did, I don't remember.

Q. Did anyone else in your firm ever report to you after April 3, 1971, that Mr. Lynn had contacted them to find out if there were any documents in your files in addition to

[49]

TU-1 to 100?

A. What time is this, now?

Q. After April 3, 1971.

A. No. I have no recollection of it. I have no notes that would suggest it, and I don't think it happened.

* * * * * * * *

A. I have one note here dated—well, I wrote to Mr. Lynn on May 26, in which I said that the deposition of Mr. McCook that I had requested in my previous letter had not been received, "nor have I been able to get through to you by telephone over the past few weeks." That had to do with the bill, and I think that I would recall had he called me in the meantime to ask about the documents * * *

* * * * * * * *

Q. From the date of the McCook deposition, which was March 23, 1971, until the date that [you] wrote that letter that you just referred to [letter dated May 26] did you have any telephone communication at all with Mr. Lynn?

A. I do not know. I have no recollection of any, but it's perfectly possible. I do know that at some time there I was trying to reach him over a period of weeks, and could get no answer.

• • • • • • •

f. DEPOSITION: MARCH 30, 1976: JAMES O. SULLIVAN

United States District Court for the
Central District of California

(Title omitted in printing)

• • • • • • •

[3]

JAMES O. SULLIVAN,

a witness herein, called by Defendant Standard Oil Company of California, pursuant to Notice of Deposition and Subpoena Duces Tecum re: Deposition, and being first duly sworn, testifies as follows:

Examination by Mr. Klitgaard:

Q. State your full name.

A. James O. Sullivan.

• • • • • • •

Q. What is your business address?

A. 600 B Street, San Diego, California.

Q. Are you a partner in the law firm of Sullivan, Jones and Archer?

A. I am.

• • • • • • •

[17]

• • • • • • •

Q. * * * [I]f you will look in your file folder for a minute —4923—you will see at the bottom a yellow sheet which is a new matter memorandum prepared under date of August 17, 1970.

A. Yes. All right.

Q. And you see in the new matter memorandum that Mr. Lynn is listed as the client?

A. Yes, sir.

Q. And that the matter involves a claim by Mr. Turnbull and Mr. McCook, or Pacific Coconut Processing Company against Standard Oil Company of California?

A. A possible claim, yes, sir.

Q. And do you see that on that file memorandum you are shown as the billing partner?

A. Yes, sir.

• • • • • • •

[39]

• • • • • • •

Q. Prior to Mr. Lynn's deposition on March 23, 1971, did Mr. Lynn contact you to ask you if you had any documents in your files in addition to TU-1 to 100?

A. Not that I recall.

Q. Or in addition to the documents that had been delivered to Standard, regardless of whatever designation they might be.

A. Not that I recall.

Q. Was it reported to you by anyone in your firm that prior to Mr. Lynn's deposition on March 23, 1971, that Mr. Lynn contacted anyone in your firm to determine if your firm or anyone in it had any documents in addition to TU-1 to 100?

A. Not that I recall.

• • • • • • •

[47]

* * * * * * * *

Q. I would like to show you next document 529, which is a copy of a Telex that was sent to Mr. Mussman on April 23, 1971. I will show you the Telex, itself, which is document 956.

A. Yes, sir.

* * * * * * * *

Q. And for simplicity of your discussion I will just refer now to document 529.

A. Yes, sir.

Q. Prior to sending that document, 529, to Mr. Mussman did Mr. Lynn contact you at any time to determine if you had any documents in your files in San Diego in addition to TU-1 to 100?

A. Not that I can recall.

Q. Was it ever reported to you by anyone in your firm that anyone in your firm had been contacted by Mr. Lynn prior to April 23, 1971, to find out if you had any documents in your files in addition to TU-1 to 100?

A. Not that I recall.

Q. Or in addition to any of the documents that may have been delivered previously by the Government to Mr. Mussman in the Government case?

A. Not that I recall.

Q. Prior to April 23, 1971, and in the time period now

[48]

from January 13, 1971, to April 23, 1971—do you have that time period in mind?

A. I do.

Q. Did you at any time personally look into the files of Sullivan, Jones and Archer, or the files of your firm by whatever name it was then known to determine if you had any documents in those files in addition to TU-1 to 100?

A. I am almost certain I did not.

Q. Was it ever reported to you that anyone else in your firm had gone back into the files of your firm during that time period, January 13, 1971, to April 23, 1971, to see if your firm had any documents in its files in addition to TU-1 to 100?

A. Not that I recall.

* * * * * * * *

[65]

[Q.] * * * I will hand you the documents, and my question will be to these specific documents, as to whether you recall seeing any of these documents before today. We will take them one by one. I hand you document SDX-92, which is a chart.

A. No.

Q. You don't recall seeing a copy of that document before today?

A. Correct.

Q. 104?

A. I don't believe so.

* * * * * * * *

[67]

* * * * * * * *

Q. 247?

A. Can counsel inform me whether there was a copy of this in our file?

Q. 247?

A. Yes.

Q. We did not find a copy of 247 in your file.

A. I don't believe so.

Q. Do you have some recollection of the subject matter of 247 being discussed with you at some time?

[68]

A. Yes, just vaguely.

Q. When did that discussion occur?

Mr. Kane [counsel for plaintiff William R. McCook]: I should make a statement for the record at this point. You have asked that question several times before as to the discussion of the subject matter of the letter, and I am not quite sure what that question means. I am not sure what the witness's answer means. If you mean discussing the subject matter of the letter within the context of it being in a letter, that's one thing; on the other hand, the letter could refer to any number of subjects that might have been discussed totally apart from that letter, as such. If your question is the first one, it seems to me it falls within the parameters of this deposition. If your question is the second one it seems to me it goes to matters which are more substantively under the attorney-client privilege.

The Witness: With that point of clarification, the first answer is that I have no recollection whatsoever of having discussed exhibit 247 with anyone.

By Mr. Klitgaard:

Q. Do you have a recollection of having discussed the content of 247 with anyone?

A. No specific recollection as to whether it was a discussion or whether it was a work product memo prepared by our firm.

Q. I am not asking you what the decision was, again. Did the work product memo or the discussion refer to the facts or to the statements set forth in document 247?

[69]

Mr. Kane: I think that the question, itself, relates to matters covered by the attorney-client privilege. * * *

Mr. Klitgaard: I am not trying to find out what the

substance of the discussion was—just whether the discussion occurred involving facts that were in here—going no further than that.

The Witness: I have no recollection of having had any discussion with anyone during which Exhibit 247, as such, was mentioned, and I have no recollection of seeing any document that referred to Exhibit 247.

By Mr. Klitgaard:

* * * * * * * *

[71]

* * * * * * * *

Q. Turning back, though, again to this specific document, 247, and to the statements that are made in there by Governor Lee as of the date of that letter, November 16, 1965, has that subject matter—referring to the matters set forth in that letter—as of the date of that letter been discussed with you?

Mr. Kane: I object to the question, because that clearly goes beyond the documentation, as such, and goes i[illegible]he area of privileged communications and work product on the part of an attorney consulted by Mr. McCook through his other attorney, Mr. Lynn, of an evaluation of the subject matter of this lawsuit. It clearly goes beyond document discovery.

The Witness: Since this gentleman is now representing the interests of the client, I won't answer the question.

* * * * * * * *

9. DEPOSITION: APRIL 20, MAY 8, 1976: HOWARD L. WINTON

United States District Court for the
Central District of California
(Title omitted in printing)

* * * * * * * *

[April 20, 1976]

[3]

HOWARD L. WINTON,

having been duly sworn, testified as follows:

EXAMINATION

BY MR. KLITGAARD:

Q. State your full name, please.

A. Howard L. Winton.

Q. What is your present business address?

A. 2040 Avenue of the Stars, Fourth Floor, Los Angeles, 90067.

Q. What is your present occupation?

A. Attorney.

* * * * * * * *

Q. Are you appearing here today pursuant to subpoena duces tecum, Mr. Winton?

A. Yes.

* * * * * * * *

[4]

* * * * * * * *

Q. How long have you been engaged in the practice of law?

A. Twenty-four years.

* * * * * * * *

[11]

* * * * * * * *

Q. Do you recall having consultations with Mr. Raymond C. Turnbull concerning a claim against Standard Oil Company involving American Samoa?

A. Yes.

* * * * * * * *

[17]

* * * * * * * *

Q. Did Mr. Gross [Mr. Winton's law clerk] work with you in connection with your work on behalf of Mr. Turnbull?

A. Yes.

* * * * * * * *

Q. Would you describe what Mr. Gross did?

* * * * * * * *

* * * Mr. Gross did spend considerable time with Mr. Turnbull going over various documents, and all that I recall is that they were fairly

[18]

voluminous in nature.

I guess that is a poor way to describe it, but that is my actual recollection, that Mr. Turnbull had a number of pieces of paper, whether they were more letters, more legal documents, or more something of another kind or nature, I really don't know, but that was the first thing. Mr. Gross was to and did spend considerable time with Mr. Turnbull and without Mr. Turnbull going over the documents and getting them in some kind of sequence or order so that he, Mr. Gross, and I could discuss the documents, and I could look them over and purport to know what I was talking about, and also so that I would be appropriately prepared for any meetings or discussions of my own with Mr. Turnbull.

The other thing that Mr. Gross did was consult with me and do some research. * * *

* * * * * * * *

[May 8, 1976]

[24]

* * * * * * * *

Q. You mentioned that you had some contact with Mr. Turnbull in 1969?

A. Yes.

Q. Do you recall who initiated that contact with you?

A. Mr. Turnbull called me.

* * * * * * * *

[25]

* * * * * * * *

Q. After Mr. Turnbull telephoned you, did you meet with him at some later date?

A. Yes.

* * * * * * * *

Q. Did Mr. Turnbull meet with you on more than one occasion?

A. Yes, I believe there were several meetings.

[26]

Q. Where did these meetings occur?

A. As I recall, the meetings were at my office, which was then at 6380 Wilshire Boulevard, and we had one meeting at an office downtown. The firm, I believe, was Simon, Sheridan, et cetera, and one of the partners was Mr. Medvene, Edward Medvene, whom I had recommended or suggested to Mr. Turnbull, and I recall one meeting there. That is the only meeting I recall.

Q. You only recall one meeting with Mr. Medvene?

A. That is all I recall.

* * * * * * * *

[29]

* * * * * * * *

Q. At that meeting with Mr. Turnbull, referring now to the first meeting—do you have that in mind?

[30]

A. Yes.

* * * * * * * *

Q. Did Mr. Turnbull bring any documents or papers with him to that meeting?

A. I don't recall whether it was to that meeting or a subsequent meeting, or whether he brought documents in when I wasn't there and left them for my review. I really have no recollection, but some documents were brought in.

* * * * * * * *

[34]

* * * * * * * *

Q. In 1969, was it your custom when documents were brought into your office for review to put the documents in chronological order or have them put in chronological order?

A. Yes.

Q. To the best of your recollection, did Mr. Gross put the documents that Mr. Turnbull brought into your office in chronological order?

A. I am quite sure he did.

* * * * * * * *

[40]

* * * * * * * *

Q. I would like to hand you a document that has been previously produced in this case and marked SDX 430-433, which is an opinion letter dated November 28, 1969. Do you have 430-433 in front of you?

A. Yes.

* * * * * * * *

[54]

* * * * * * * *

Q. After you wrote Document 430-433, did you have any further meeting with Mr. Turnbull?

A. I don't think there was any meeting. I believe he came in and picked up his files at some subsequent time. Whether he actually sat and talked any further about the circumstances at that time, I don't recall.

Q. Do you recall how long it was after this letter that Mr. Turnbull came in and picked up his files?

A. No, I really don't except that it wasn't very long. I think he contacted me either by letter or by phone after I sent this letter 430-433, and we talked along the general lines that he wanted some consideration of a different or lesser fee arrangement * * * and when I said that wouldn't be something we could work out, then after that he came in and picked up his files.

* * * * * * * *

[55]

* * * * * * * *

Q. Is it your best recollection that it was within a month or two?

A. Yes, that is my best recollection.

* * * * * * * *

[61]

* * * * * * * *

Q. In reviewing Mr. Turnbull's documents, did you ask him at any time to go back and see if he had additional documents that might provide helpful information to you?

A. I don't believe that was ever mentioned. I believe that the context in which he brought in whatever he brought in was that these were the documents that he had in his possession that he wanted to have reviewed, and I don't recall ever asking him anything in the nature of what you mentioned.

* * * * * * * *

[64]

* * * * * * * *

Q. At the time [October, November, 1969] did Mr. Turnbull appear to be familiar with the documents that were in his files?

A. Yes, he did.

* * * * * * * *

[66]

* * * * * * * *

Q. If he had told you that Mr. McCook had such documents [concerning petroleum in American Samoa], would it have been your normal practice to have those documents brought to you?

A. I believe so. I believe that if he had mentioned any documents that he might have had in his possesion or that someone else had that he might have had access to, it seems to me that I definitely would have asked for them, and I don't recall anything like that.

* * * * * * * *

[74]

* * * * * * * *

Q. I would like to show you now, Mr. Winton, * * * some documents that Mr. Turnbull delivered to Mr. Sullivan and Mr. Jones in San Diego, in the period July or August 1970 * * *

* * * * * * * *

[78]

* * * * * * * *

Q. I am showing you 4701-4702. Have you seen that document before today?

A. I have the same general recollection as I just mentioned about the last document. I think I have seen this.

I notice Prince Tungi, Governor Lee, some mention of Star-Kist and some of the types of details that it seems to me I did see in some document or another. I would have to say that I saw both the last document and this one.

Q. Referring to 4700 and 4701 and 4702?

A. Correct.

Q. Have you seen 4703-4704 [TU 79-80] before today?

A. I think so. I think that is one of the ones I saw, also. The same general ring-a-bell type of thing, the Governor, and some mention of Star-Kist and various other items. I think I saw all the ones I mentioned and that one.

Q. Have you seen 4705 [TU 70] before today?

A. The same answer as for my last two questions. I think this is one of the documents that I saw.

* * * * * * * *

Q. Have you seen 4708-4709 before today?

A. Yes, I believe I did. I believe that was one of the documents that Mr. Turnbull brought in.

* * * * * * * *

[79]

* * * * * * * *

Q. Have you seen 4712-4713 [TU 71-72] before today?

A. I believe I did see this one, yes. I believe this is one of the ones that I recall seeing.

* * * * * * * *

Q. Have you seen 4716, 4717 and 4718 before today? You will note that 4716 and 4717 is a letter, and 4718 is an attachment to the letter.

A. I think I saw this, too. I think I recall seeing this.

Q. Referring to the entire document?

A. Yes, I recall seeing it.

* * * * * * * *

Q. Have you seen 4720-4722?

A. I think I did. I think that is one of the ones I saw, too, all three of those pages. That rings a bell.

Q. Referring to Oceanic Petroleum Corporation?

A. Yes.

Q. That is a financial report on Oceanic Petroleum Corporation?

A. I truthfully didn't read it to determine what it was. I am just trying to remember whether I had seen it before, and it seems to me that I had.

[80]

* * * * * * * *

Q. Have you seen 4736 [TU 11] before today?

A. I think so. I think I saw that one.

* * * * * * * *

[81]

* * * * * * * *

Q. I will show you now 4758 and 4759. 4759 is the earlier document, and 4758 appears to be the response. Will you look at both of those documents?

* * * * * * * *

[82]

A. * * * Yes, I believe I saw both of these.

Q. 4758 and 4759?

A. Yes.

Q. I am handing you Documents 4760 and 4762, which again appear to be related correspondence. I believe that 4762 is the first one.

A. Yes, I believe I saw those.

Q. 4760 and 4762?

A. Correct.

Q. Did you see the envelope, which is 4761?

A. I don't recall. I see it now, but I don't recall.

[91]

Q. Have you seen Document No. 107 [TU 20] before?

A. I believe I saw that one.

* * * * * * * *

Q. Have you seen Document 109 [TU 21] before?

A. I believe I did see that one. I remember the second paragraph especially.

Q. You mean the reference to Chief Pele?

A. Yes, I believe I saw that.

* * * * * * * *

[93]

* * * * * * * *

Q. I will show you Document 113 [TU 7]. Have you seen that document before?

A. I believe I have, and it is the third paragraph that I am quite certain I saw in this letter.

* * * * * * * *

[94]

* * * * * * * *

Q. Have you seen 123-124 [TU 23-24] before?

A. Yes, I believe I have seen this as distinguished from just remembering the language. Especially, I believe I saw this letter because of the reference to the Tongans, what time they start work and what time they finish work and the paragraph about the cost of dredging out the bay,

[95]

et cetera. I believe I saw this letter.

* * * * * * * *

Q. Have you seen 127 [TU 27] before?

A. I believe I saw that letter.

Q. Have you seen 128 [TU 28] before?

A. I believe I saw that letter.

* * * * * * * *

Q. Have you seen 135 before?

A. Yes, I recall that. I recall seeing that.

[96]

Q. Have you seen 136 before?

A. Yes, I believe I saw that, also.

Q. Have you seen 137 before?

A. Well, I am not certain. I have a—I believe I did, but I may simply be recalling the one or two just before this. In other words, it is kind of a—kind of together in my mind, the letterhead, Walker-Moody.

Q. You mean the general letterhead?

A. Yes. So, whether I saw one or more than one, I really don't recall.

Q. You said you saw 135 before and 136?

A. Yes, and I have a specific recollection of that letter.

Q. 135?

A. Right, * * *

* * * * * * * *

Q. Are you familiar with the subject matter of 137?

A. * * * Not to the same extent that hit my mind when I saw 135.

* * * * * * * *

[97]

* * * * * * * *

Q. I would like to show you 140 [TU 15]. Have you seen that before?

A. I am quite certain I saw that before, yes.

* * * * * * * *

Q. Have you seen 146 [TU 19] before?

A. I believe so. I believe I saw that.

[100]

* * * * * * * *

Q. Have you seen 170 [TU 48] or 171 before?

A. I believe I did. I believe I saw those.

Q. You saw both of them?

A. I believe so.

* * * * * * * *

[103]

* * * * * * * *

Q. I am showing you a set of documents now from Chicago Bridge & Iron, and these documents run from Nos. 192 through 212. 192-194 is a letter from Chicago Bridge & Iron. 195-199 and up to and including 200 is a set of engineering specifications * * *

[104]

At the end we have the written specifications in addition to the engineering specifications. The written specifications are numbered 201-212. Will you look through those documents for me, please?

A. I believe I recall 192-194. I do not recall 195. I may have seen it. I just don't recall it. I don't recall 196. I don't recall 197, 198, 199 or 200. I believe I do recall 201, 202, 203, and I believe I also recall 204, 205, 206.

* * * * * * * *

[105]

* * * * * * * *

Q. I will show you Document 213-214 [TU 67-68]. Have you seen that before?

A. Yes, I believe I have seen this. This is just full of language that I recall, and I think it would be too much of a coincidence for so much of the language to be in one letter. I think I saw that.

Q. Is that your best recollection?

A. Yes.

* * * * * * * *

[109]

* * * * * * * *

Q. Have you seen Document 248 before?

[110]

A. I think I did. I believe I saw that.

* * * * * * * *

[139]

* * * * * * * *

Q. Do you recall sending any documents to the Department of Justice?

A. I do not.

Q. Do you recall at any time, now having looked at 6846, going back to Mr. Turnbull after your November 28 letter and asking for any documents to send to the Department of Justice?

A. I do not recall anything like that.

Q. Or asking for any additional documents at all?

A. I do not recall anything like that.

Q. Do you know what documents are being referred to here in 6846?

A. No.

Q. Do you recall ever sending to the Department of Justice a copy of Document 239-240, which was the McCook

[140]

proposal?

A. I do not recall.

Q. How long have you been practicing law, Mr. Winton?

A. Twenty-four years.

* * * * * * * *

Q. Over that period, have you had communications with the Department of Justice at any time concerning any matters involving the Antitrust Division?

A. Not that I recall.

* * * * * * * *

h. DEPOSITION: MAY 6, 1976: JERROLD S. GROSS

United States District Court for the
Central District of California

(Title omitted in printing)

* * * * * * * *

[3]

JERROLD GROSS,

having been duly sworn, was examined and testified as follows:

EXAMINATION

By Mr. Klitgaard:

Q. Would you please state your full name.

A. Jerrold Stanley Gross.

Q. What is your business address?

A. 2040 Avenue of the Stars, 4th Floor, Los Angeles 90067.

Q. What is your present occupation, sir?

A. I am a law clerk.

Q. For whom?

A. Howard L. Winton.

* * * * * * * *

Q. Are you appearing here today pursuant to subpoena duces tecum?

A. Yes, I am.

* * * * * * * *

[19]

* * * * * * * *

Q. Did Mr. Turnbull bring documents to the second meeting with Mr. Winton?

A. At some point prior to the letter, 430 to 433 [opinion letter dated November 28, 1969], at some point between the initial consultation with Mr. Winton and the date of this letter, Mr. Turnbull brought a substantial number of documents to the office.

* * * * * * * *

Q. When you say substantial number of documents, can you give us an estimate for example of how high the pile was?

A. As I best recall, it was in at least one, perhaps two cartons, you know, such as the grocery market—when you are going to move, you go get cartons to move. I believe it was one or two of those.

Q. By a carton, you are referring to a carton that would be roughly a foot to a foot and a half or two feet high?

A. Approximately, yes.

Q. And maybe 36 inches wide or long?

A. Twenty-four to 36 inches, approximately.

Q. Did you see the cartons when they were brought in or shortly after they were brought in?

A. Yes, I did.

* * * * * * * *

[20]

* * * * * * * *

Q. Did the documents come to the top of one carton, or do you recall?

A. My recollection is that the carton or cartons were more than half full, but I wouldn't say to the top nearly. Again, it required a carton to transport them. That is all that I can recall.

Q. Were there any file folders in the cartons in addition to just loose documents?

A. I believe so.

Q. When the documents were brought in by Mr. Turnbull, did you go to the documents, look through them?

A. Yes, I did go through them at some point.

Q. Did you put them in chronological order?

A. I believe I put them into separate categories, and then within each category I put them in chronological order.

* * * * * * *

[21]

* * * * * * *

Q. When you broke the documents down into categories of chronological order, did you then show the documents to Mr. Winton?

A. Yes, I believe I did and then discussed them.

Q. Did Mr. Winton ever look through the documents themselves, to your knowledge?

A. I don't recall if he went through them in their entirety. He may have read certain of the documents that I suggested that he should read.

[22]

Q. In other words, you don't recall Mr. Winton going through the documents one by one?

A. Oh, no, that was my function.

* * * * * * *

[23]

* * * * * * *

Q. Did Mr. Turnbull bring any additional documents after this first group of documents in the boxes that you referred to a moment ago?

A. * * *. My recollection is that at the first meeting with Mr. Winton he may have brought some documents, but as a result of the first meeting, I believe Mr. Winton requested him to bring further documents, and at the second meeting, he did so, or he then—I think Mr. Winton probably told him to bring everything that he had in his possession which was related to this

[24]

transaction or these events.

Q. Relating to the petroleum supply in American Samoa?

A. Right, correct.

* * * * * * *

[25]

* * * * * * *

Q. In the documents that Mr. Turnbull brought in, were there typewritten originals, as well as photocopies?

A. I believe there were some original documents, yes.

* * * * * * *

[26]

* * * * * * *

Q. How much time did you spend reviewing the documents that Mr. Turnbull brought in?

A. I would estimate that I spent about two to three, two to three days perhaps. It may be a little more. I mean, I may be enlarging it somewhat.

Q. Were those roughly two to three 8-hour days?

A. Yes.

* * * * * * *

[30]

* * * * * * *

Q. Did Mr. Winton return these documents to Mr. Turnbull more than a month or two after this letter of November?

A. My recollection is that it was a substantial period of time after the letter.

* * * * * * * *

[34]

* * * * * * * *

Q. Do you recall how long it was after the Government suit was filed that Mr. Turnbull first saw Mr. Winton?

A. I might be able to reconstruct it. It was very close to the time that the suit was filed by the Government. I am relying on the statement, the date given as to when the suit was filed in the letter of June 1973.

Q. The suit was filed in late September 1969.

A. That is correct.

Q. When you say very close, what do you mean by that?

A. Within a matter of a month and a half, a month to a month and a half.

* * * * * * * *

[35]

* * * * * * * *

Q. Did Mr. Turnbull or anyone else ever mention to you that the documents that had been delivered to your office were previously delivered to the Department of Justice and then returned by the Department of Justice in whole or in part?

A. Now that you state it, that sounds somewhat familiar. It may have been. In other words, I believe the Department of Justice may have reviewed Mr. Turnbull's documents in connection with preparing the suit by the Government, but I am not sure whether I am reconstructing that from what you say or not, and it is logical. I believe it may well have been.

* * * * * * * *

Q. You have a general recollection?

A. Yes.

Q. That the Department of Justice had looked at some of the documents or all of them?

A. I believe so, yes.

* * * * * * * *

[45]

* * * * * * * *

Q. I would like to show you some documents that we obtained from the files of Sullivan, Jones & Archer which they received sometime in August of [1970] from Mr. Turnbull, * * *

* * * * * * * *

[48]

* * * * * * * *

Q. I show you Document 4693. Have you seen that document before?

A. I believe so. I believe that was one of the documents or a copy of one of the documents or another copy that was included among those that were brought by Mr. Turnbull to Mr. Winton's office.

Q. I show you Document 4695 [Tu 58]. Have you seen that document before?

A. I believe so, yes. I am quite sure I did see that.

* * * * * * * *

Q. Have you seen 4696 through 4698 [Tu 62-64]?

A. Yes, I believe—let me read it thoroughly, but I see something that—

Q. Rings a bell?

A. Yes. Yes, I am quite sure I saw that. * * *

[49]

* * * * * * * *

Q. I hand you Document 4701 and 4702. Have you seen that document before?

A. Yes, I believe this is one of the documents that was included in those boxes by Mr. Turnbull for Mr. Winton which I saw.

Q. Is that one of the documents that you selected out for Mr. Winton?

A. I believe I recall it, yes.

Q. You recall selecting it out?

A. Yes.

[50]

Q. I would like to show you Document 4703 and 4704 [Tu 79-80]. Have you seen that document before?

A. I believe I do recall this document, yes. I mean that I saw this document previously.

* * * * * * * *

[51]

* * * * * * * *

Q. Do you recall seeing 4705?

A. I believe so, but I am not certain. I don't have a very clear recollection of having seen it, but I may well have.

Q. Do you have a better recollection of having seen 4701 and 4702?

A. Yes, very definitely.

* * * * * * * *

Q. I would like to show you 4708-4709. Do you have

[52]

that document?

A. Yes.

Q. Is that one of the documents you have seen before?

A. I recall having seen that, yes.

* * * * * * * *

[53]

* * * * * * * *

Q. I would like to show you Document 4712-4713 [Tu 71-72]. Have you seen that document before?

A. Yes, yes.

Q. Is that one of the documents that you selected out for Mr. Winton?

A. I am quite sure it was.

* * * * * * * *

Q. Have you seen Document 4716-4717 and the

[54]

Attachment 4718 before?

A. Yes, yes. I recall the attachment. I recall the document.

Q. You recall 4716 and 4717?

A. Yes, yes.

Q. Is that package, namely, 4716 through 4718 one of the documents that you selected out for Mr. Winton?

A. I am quite sure it was.

Q. I would like to show you 4719 [Tu 76]. Do you have that in front of you?

A. Yes.

Q. Have you seen that document before?

A. I believe so. Yes, I believe I have seen this document, and it was included in the ones brought by Mr. Turnbull.

* * * * * * * *

Q. I hand you Document 4720-4722, which is a Dun & Bradstreet report, it appears, on Oceanic Petroleum

[55]

Corporation. Have you seen that document before?

A. I believe I did, yes.

Q. Is that one of the documents that you delivered to Mr. Winton?

A. Yes, my best recollection is that I did see that at the time we discussed it.

Q. Is this one of the documents you selected out for Mr. Winton?

A. I believe so. I recall the description of the personnel of Oceanic Corporation.

* * * * * * * *

Q. I would like to hand you document 4727 [Tu 4]. Have you seen a copy of that document before?

A. Yes, I did. That part I remember.

Q. Are you referring to the penultimate paragraph about Chief Pele getting loaded?

A. Yes.

* * * * * * * *

Q. I would like to hand you Document 4730. Have you

[56]

seen that document?

A. I believe I did.

Q. Is that your best recollection?

A. Yes, my best recollection is that I did, but what rings a bell is the phrase "All proposals favorable."

* * * * * * * *

[57]

* * * * * * * *

Q. I am showing you 4736 [Tu 11]. Have you seen that document before?

A. Yes, I recall seeing that.

* * * * * * * *

[58]

* * * * * * * *

Q. I show you Document 4737-4738 [Tu 12-13]. Do you have some recollection of having seen this document before?

A. I believe I did. What seems to be familiar is the reference to Governor Lee's trip to Japan.

* * * * * * * *

Q. I would like to show you 4739. Do you have that document in front of you?

A. I do.

Q. Have you seen this document before?

A. I believe I did, yes.

* * * * * * * *

Q. I show you 4741 and 4743 [Tu 16-17].

[59]

A. I believe I saw this.

Q. Referring to 4741?

A. Correct.

* * * * * * * *

Q. I show you Document 4742, which is a single-page letter. Do you have that in front of you?

A. Yes, I do.

Q. Have you seen this particular document before?

A. Yes, I believe I saw this.

Q. Is that one of the documents you selected out?

A. I believe so.

Q. Is that your best recollection?

A. Yes.

* * * * * * * *

[62]

* * * * * * * *

Q. * * * [L]ooking at 4745, do you have a recollection of seeing that document?

A. I believe I did.

Q. I will show you 4756. Do you have a recollection of seeing that document?

A. Yes, I believe I saw this, and it was one of the documents I reviewed which was brought to Mr. Winton by Mr. Turnbull.

* * * * * * * *

Q. I am showing you Document 4759 and 4758. 4759 is a letter dated July 12 and 4758 is a letter dated

[63]

August 5. Will you look at both of those documents and then I will come back and ask you questions about each one separately. You might start out with 4759.

* * * * * * * *

A. I believe I recall these, both of these documents.

* * * * * * * *

Q. Do you recall seeing 4758?

A. Yes.

* * * * * * * *

[64]

Q. I would like to hand you now Documents 4762 and 4760 and an envelope which is marked 4761. You will see that 4762 is an earlier document and I will ask you to review those three documents.

* * * * * * * *

Do you recall seeing 4762 before?

A. I believe I do, yes.

* * * * * * * *

Q. Do you recall seeing 4760 before?

A. I believe so.

Q. How about the envelope?

A. I don't recall seeing the envelope.

Q. That is 4761, referring to the envelope?

A. I do not recall ever seeing that before.

Q. You do have a recollection of seeing 4760 and 4762?

A. My best recollection is that I did.

* * * * * * * *

Q. I show you 4765. Have you seen that document before?

[65]

A. Yes, I believe I did see that. I don't know whether it was the original or a copy of the cable.

Q. Have you seen Document 4764 before?

A. I believe I do recall seeing this, and I am referring to 4764.

* * * * * * * *

Q. Looking at page 306, do you see that is a letter from Chicago Bridge & Iron Works?

[66]

* * * * * * * *

* * * [D]o you have any recollection of having seen a document similar to this Chicago Bridge & Iron letter?

A. Yes, I am very certain. Regarding the furnishing, manufacture of storage tanks.

* * * * * * * *

Q. Did you see the letter from Chicago Bridge & Iron as well as the specifications?

A. You are referring to 306? I am quite sure I did.

Q. You are quite sure you did?

[67]

MR. PALMIERI: Did see what? The letter? * * *

THE WITNESS: The letter, yes, copy of the letter.

* * * * * * * *

Q. I would like to show you a letter that has been marked 224, and also a letter marked 225 which appears to be a photocopy of the same document.

A. I believe I saw that, yes.

Q. Referring to 224?

A. Correct.

Q. You will see that 225 appears to be a somewhat better photocopy. Would you read through 225?

A. (The witness complied.)

Q. Do you recall seeing Document 225?

A. I believe I did.

* * * * * * * *

[68]

* * * * * * * *

Q. I am showing you document 226. Have you seen that document before?

A. I believe so. This refreshes my recollection about Mr. Shaw being away from his office, just an interim bulletin.

Q. I am asking if you recall.

A. Yes, I believe so.

* * * * * * * *

Q. I would like to show you Document 227. Have you seen that document before?

A. I believe I did.

* * * * * * * *

Q. Directing your attention to Document 229, have you seen that document before?

A. I believe I did, yes.

* * * * * * * *

[70]

* * * * * * * *

Q. I am handing you Document 237 and 238. Do you have that document in front of you?

A. Yes, I do.

Q. Have you seen this document before?

A. I believe I did see this. This appears to be a draft of a letter which was subsequently revised, and I think this refreshes my recollection. I believe I did see this.

* * * * * * * *

[71]

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Q. I would like to show you Document 246. Have you seen that document?

A. I really can't say. The problem I am faced with is all the substance of this letter, for example, is very familiar to me. I don't know whether I saw this particular letter.

Q. Is the substance of the letter familiar to you?

A. I may be working backwards, but it appears to me to be at this point.

* * * * * * * *

Q. Do you recall selecting this document out for Mr. Winton?

A. I have no recollection of that.

* * * * * * * *

Q. I am showing you Document 247.

A. I believe I saw this.

* * * * * * * *

Q. I show you Document 248 [Tu 51]. Have you seen that document before?

A. I recall, I am quite sure I saw this, yes.

Q. Is that one of the documents you selected out

[72]

for Mr. Winton?

A. I believe so.

* * * * * * * *

[73]

* * * * * * * *

Q. I have in front of me a set of documents that run from 92 to 329. Were the documents in the box a larger stack than this? Did the box contain more documents than this pile we are looking at?

A. My recollection is it was a larger stack of documents or a greater number of documents than what you are pointing to.

Q. How much greater would it have been, twice as much?

A. I would estimate at least twice as much.

* * * * * * * *

[75]

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Mr. Klitgaard: We will take a recess now until 1:00 o'clock P.M.

(Whereupon, at 12:10 P.M., a recess was taken to 1:00 o'clock P.M.)

[76]

(Whereupon, at 1:15 P.M., Thursday, May 6, 1976, the taking of the deposition of Jerrold Gross was resumed at the same place, the same persons being present.)

JERROLD GROSS,

having been previously duly sworn, testified further as follows:

EXAMINATION (Resumed)

By Mr. Klitgaard:

Q. Did you have any conversations with Mr. Palmieri during the noon hour?

A. Yes, I did.

Q. Where did the conversations occur?

A. We had lunch at the Holiday Inn. I believe it is across the street.

Q. Was anyone else present?

A. No.

Q. Who paid for the lunch?

A. Mr. Palmieri.

Q. He bought your lunch?

A. Yes.

Q. What was discussed in the conversation with Mr. Palmieri?

* * * * * * * *

[77]

* * * * * * * *

We discussed my background and legal training and a number of other matters. With respect to this matter, he asked me to clarify what I meant when I was stating with regard to one of the exhibits that I recalled the subject matter of the document, and you know, in the case where I said I didn't know, I had no recollection whether I had seen that particular document, but I did—the subject matter was familiar to me, and he said what did I mean by "familiar to me."

My answer, which was the answer I would give you, of course, is that it was related to the proposal to supply petroleum products in American Samoa.

Mr. Klitgaard: Q Did Mr. Palmieri show you the document?

A. Yes.

* * * * * * * *

[78]

* * * * * * * *

Q. Did Mr. Palmieri bring documents with him to the lunch?

A. Yes.

Q. Did he show you those documents during the noon hour?

A. He showed me one, one or two.

* * * * * * * *

They were both documents which you had previously shown me.

* * * * * * * *

Q. Did he tell you why he was asking you questions during the lunch hour instead of on cross-examination on the record?

A. No, he didn't explain it.

* * * * * * * *

Q. Did Mr. Palmieri select out the documents he wanted to ask you about during the lunch hour? Did he pick them out of the folder and hand them to you?

A. Yes.

* * * * * * * *

Q. I have shown you a number of documents. Did he tell you why he selected those two documents?

A. No. The only thing he referred to was my answers with respect to a number of documents where I did not recall—I don't have any recollection whether I saw this particular document, but the subject matter that is contained in the document is familiar to me, and he asked me what I meant, to define what I meant by saying the subject matter, that I recall the subject matter. What did I mean by that.

* * * * * * * *

* * * * * * * *

Q. Did Mr. Palmieri discuss with you how documents were produced in this present case?

A. How they were produced?

Q. Yes. In other words, in terms of some produced from the files of Mr. McCook and some from Mr. Turnbull?

A. No, with the possible exception of what he stated when you during the morning session first showed me these two documents.

Q. 246 and 247?

A. Right. I believe at that time he stated that those were from the McCook file or something to that effect.

Q. Did he repeat that again at noontime?

A. Only to the same extent that he stated on the record this morning.

* * * * * * * *

* * * * * * * *

Q. I would like to show you 246, which is a letter dated October 5, 1965.

A. Yes.

Q. Do you recall earlier in your testimony that you were familiar with the subject matter of this document?

A. I believe, and my recollection of this morning's session and my testimony with regard to this document No. 246 was that I did not have a recollection one way or the other that I had seen this particular document, but I was familiar with the subject matter. I believe I stated the same by the way with regard to this other document No. 247.

Q. I believe your testimony is wrong in regard to 247. We will come back in just a minute—

* * * * * * * *

[83]

Mr. Palmieri: Wait a minute. You made a statement, and you are assuming facts that are not in evidence. That is not what he stated.

Mr. Klitgaard: I think the record will speak for itself, Mr. Palmieri on that, and the record will show that the witness testified as to 247 that he believed he had seen that document before; that it was his best recollection that he had seen that document before.

* * * * * * *

[84]

* * * * * * *

Q. Let's come back to 246. Do you have that in front of you?

A. Yes.

Q. Did you discuss with Mr. Palmieri the subject matter of this document, the matters set forth therein?

A. No, not in specifics, just with regard to this question to me was when I made the statement, and I would like to repeat myself with regard to that statement. I made that statement in regard to a lot of other documents as well, because as I said, a lot of this is very familiar to me. I don't know that I saw that particular document. Chances are that in many cases I did, but I have no way of connecting the subject matter.

Q. Is this position something that Mr. Palmieri discussed with you during the noon hour?

A. I believe I so testified this morning that I made the statement I believed on more than one occasion that I could not say this particular document—my recollection in some cases was very specific that I recalled. Many of them I said I don't recall that I saw that particular

[85]

document. I do recall having seen in some—maybe in another document or the document I was being questioned about, the information that was contained in that with respect to these two documents.

* * * * * * * *

[86]

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Q. Recalling the documents that you saw in the box or among the papers that Mr. Turnbull delivered to Mr. Winton, did you see more than one letter from Mr. McCook to Governor Lee?

A. I don't recall seeing a letter. I mean, I have no specific recollection of a letter from Mr. McCook. I may well have seen it, but I can't say I saw a letter from Mr. McCook. Most of the correspondence that I saw was either to or from Mr. Turnbull.

* * * * * * * *

[89]

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Q. Do you recall in the documents that you reviewed a response by Governor Lee in writing?

A. I believe you asked me that question with regard to this document.

Q. By this document—

A. I am referring to 247, and I believe my testimony was that I have no—I either did not recall it or I had no recollection either way.

Q. I tell you now that you are changing your testimony.

[90]

* * * * * * * *

Mr. Klitgaard: Let's have the record read back.

* * * * * * * *

Let the record show that we are reading back to the witness the following testimony that he gave before lunch. Will you read back that portion of the record concerning Documents 246 and 247?

(The record was read from line 3 through line 24, page 71, by the reporter.)

Mr. Klitgaard: Q You have just heard your testimony, Mr. Gross, where you testified you believed you saw Document 247.

A. Yes, I just heard that.

Q. Do you want to change that testimony now?

[91]

A. I would, yes. I do not have a recollection again, repeating myself, I may have seen it, but I have no recollection of having seen it.

* * * * * * * *

[97]

* * * * * * * *

Q. In any of those documents that you reviewed which were supplied by Mr. Turnbull, were any of those documents totally unrelated to the supply of petroleum products in American Samoa?

A. Totally unrelated?

Q. Right.

A. I can't say for sure, but I don't believe any of them were totally unrelated. It is possible.

Q. You don't have any present recollection of anything being totally unrelated?

A. There could have been some that I just pushed aside. I just don't recall.

Q. You don't recall any that were totally unrelated?

A. No.

Q. Did Mr. Winton to your knowledge ask Mr. Turnbull to bring in all of his documents relating to petroleum supply in American Samoa?

[98]

A. I believe he did, yes. Yes, that is what he consulted him for.

* * * * * * * *

[108]

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Q. * * * [I]t is your testimony you have no recollection of seeing 129-130?

A. I have no recollection.

Q. I would like to hand you document 131 [TU 31]. Have you seen that document before?

A. That appears familiar to me. I believe I did, yes. A couple of items in there are rather striking to me.

Q. What items are those?

A. The request for clarification as to Unoco, whether Unoco is making a firm commitment or holding off until they get word that it might be worked out and also wanting to check with Washington before making any decisions. That may have been a refrain. Generally the whole content of the letter is familiar to me.

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[109]

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Q. I would like to hand you 135. Have you seen that document before?

A. I believe that I did see this, yes.

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[113]

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Q. I will hand you now Document 160-161 [TU 44-45]. Have you seen that document before, Mr. Gross?

A. I believe I did. I recall the reference to Tommy Corcoran.

Q. That is the reference in the second paragraph on the first page of the document?

A. Yes.

Q. I am handing you Document 162-163 [TU 46-47].

A. Yes, I believe I recall seeing this.

Q. You recall seeing this document?

A. Yes, 162-163.

* * * * * * * *

Q. Have you seen 165 before?

A. Yes, I believe I did.

Q. You say you are giving me your best recollection?

A. My best recollection is that I saw that Document 165.

Q. I am handing you Document 166 [TU 58]. Have you seen that before today?

A. My recollection is that I saw this document, yes.

[114]

Q. I am handing you 167 [TU 59]. Have you seen that before?

A. My recollection is that I saw this Document 167.

* * * * * * * *

Q. I will hand you 172 [TU 60]. Have you seen that document

[115]

before today?

A. My best recollection is that I did. I believe that the statement that ships normally fuel at Suva but will fuel in Pago is quite familiar to me.

Q. Have you seen Document 176 [TU 50] before today?

A. I believe I did.

Q. Again, that is your best recollection?

A. Yes, it is.

* * * * * * * *

[119]

* * * * * * * *

Q. I am handing you Document 188. Have you seen that document before?

A. My best recollection is that I did.

* * * * * * * *

[120]

* * * * * * * *

Q. I am handing you Documents now 192-212, which is a Chicago Bridge & Iron letter to Pacific Coconut Processing Company and various specifications. Will you look through these documents? * * *

* * * * * * * *

[121]

* * * * * * * *

A. My best recollection is that I did see the letter dated November 30, 1964, which is among the Documents 204-206. I have no recollection with regard to the specifications attached to it. I believe these sheets which are in a graph or a chart form of specification—I don't recall seeing the written specifications.

* * * * * * * *

* * * [M]y best recollection is that I saw the cover letter, Documents 204-206.

* * * * * * * *

Q. I would like to show you Document 213-214 [TU 67-68] and ask if you have seen that document before?

A. My recollection is that I saw this document, which is a letter consisting of Documents Nos. 213 and 214.

[124]

* * * * * * * *

Q. I show you Document 244 and 245. Have you seen that document before today?

A. My best recollection is that I did see this document or a copy of it. * * *

Q. I show you Document 248 [TU 51]. Have you seen that document before today?

[125]

A. My best recollection is that I did see this document.

* * * * * * * *

[146]

* * * * * * * *

Q. I would like to show you a letter dated November [147] 3, 1969, which has been marked 6844-6845 from Mr. Hollander at the Department of Justice to Mr. Turnbull. Will you read through that letter, please?

A. Yes.

Q. Have you seen a copy of this letter before today?

A. I believe I may have. I am not really certain, but my best recollection is I may have seen that.

Q. Do you recall where you saw it?

A. It would have been shown to Mr. Winton and myself by Mr. Turnbull.

Q. Was it with the box of documents that Mr. Turnbull brought over to you?

A. That I don't recall. I don't know whether it was included in all the documents or he showed it to us separately. It did not relate, you know, to the substance of the proposal to supply petroleum products. It is just a transmittal of documents we were interested in reviewing to evaluate the action.

In other words, it may have been separately shown to us if we saw it, or it may have been on the top of the box. It appears to reflect the files and documents that Mr. Turnbull brought in for Mr. Winton to review.

Q. You have some general recollection then of seeing 6844 or 6845 prior to today?

A. Yes, my best recollection is I believe I saw it.

Q. You will see here that in 6844 there is a reference to a delivery of documents by Mr. Turnbull on October 29, 1969 to Mr. Hollander.

[148]

A. Correct.

Q. And then you will see on the second page there is a receipt acknowledged by Mr. Turnbull as having obtained these documents on November 18, 1969.

A. I see that, yes.

Q. Your letter to Mr. Turnbull was dated November 28, 1969, ten days after the receipt was signed. Did Mr. Turnbull bring in the box of documents to you within the ten days of that November 28, 1969 letter?

A. I don't have a specific recollection. I would infer from this letter that he did. It was subsequent to his receipt, because I do recall—I believe I so stated before—that some of the documents were brought in files.

Q. In files?

A. Yes, a file of correspondence. I believe that was—well, that may have been part of what he brought in. I am inferring that from this date. I don't have a recollection of a particular time sequence. It may well be that Mr. Turnbull first contacted Mr. Winton before he received this back.

* * * * * * * *

[168]

Q. I wanted the record to show your background, Mr. Gross. Earlier you indicated that you were a law clerk in the office of Mr. Winton; isn't that correct?

A. That is correct.

* * * * * * *

Q. You went to college?

A. Yes, I went to UCLA and I had about a semester to complete and decided I didn't want to teach French. I then left and went into construction.

Q. And you were in construction for a number of years?

A. Right. * * *

Q. In about 1960 or 1961 did you first have contact with Mr. Winton in connection with a lawsuit involving your

[169]

contracting business?

A. Yes, 1960, I believe.

Q. And sometime thereafter you began working with Mr. Winton?

A. That is correct.

* * * * * * *

Q. * * * [Have] you participated in the drafting of pleadings?

A. Yes.

Q. And in briefs in various courts?

A. Yes.

Q. And in preparation of various cases for trial?

A. Yes.

* * * * * * *

[170]

* * * * * * *

Q. And you have studied independently on your own various subjects of the law such as pleadings perhaps and contracts and other matters in connection with preparing to be a lawyer?

A. Yes, and under Mr. Winton's supervision.

Q. Are you still studying at this time to become a lawyer?

A. Yes.

* * * * * * *

Q. Right now you are a man in your early 50's, I take it?

A. Just turned 50.

Q. Have you had occasion in working for Mr. Winton to review documents in other cases?

A. Yes.

Q. Have you done that on more than one occasion?

A. * * * The first, I believe, the very first matter that Mr. Winton asked me to * * * work with him on required the review of a really substantial number of documents, about two filing cabinets for examination. * * * I reviewed all the documents and made memoranda respecting them to a great

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extent in that case.

Q. In other cases besides that case you just talked about where there were filing cabinets full of documents, have you inspected large numbers of documents?

A. Yes, I am sure I have. That one stands out in my mind. I am talking about two filing cabinets full. It was quite a chore.

Q. In reviewing documents in various cases, have you received instructions from Mr. Winton as to generally what you were going to look for?

A. Oh, yes.

Q. Do you more or less look in the files on your own without instruction?

A. No, at Mr. Winton's instructions. He would give me a description of what the nature of the case was as he understood it from a potential client or a client, and with that in mind, I would then review the documents to locate or segregate those that were material from what was not.

* * * * * * * *

I. AFFIDAVIT: FEBRUARY 19, 1976: BERNARD M. HOLLANDER

United States District Court for the
Central District of California

(Title omitted in printing)

AFFIDAVIT OF BERNARD M. HOLLANDER

District of Columbia—ss:

Bernard M. Hollander, being first duly sworn, deposes and says:

1. Affiant is a member of the bars of the District of Columbia, the United States District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia Circuit and the United States Supreme Court, and has been admitted to practice before the Central District of California in several antitrust actions, three of which are now pending before Judge Robert L. Kelleher. Affiant was the Government's trial counsel in *United States v. Standard Oil of California*, 362 F.Supp. 1331, (N.D. Cal. 1972), *affirmed*, 412 U.S. 924 (1973) (Government case), and is presently representing the United States in continuing post judgment proceedings before Judge Samuel Conti in the Government case. Affiant is also Chief of the Judgments and Judgment Enforcement Section, Antitrust Division, United States Department of Justice.

2. This Affidavit is filed in support of a motion for a protective order that notices of deposition be vacated and discovery not be had pursuant to subpoenas *duces tecum* served upon affiant and upon the Department of Justice by Standard Oil Company of California ("Standard") on February 6, 1976. These subpoenas seek deposition testimony and document production in this private treble damage action on February 24 and 25, 1976, in Washington, D.C. Copies of the notices of deposition and the subpoenas are attached hereto as Exhibits 1(a)-(d).

3. A letter (Exhibit 2) signed by Thomas J. Klitgaard, Standard's trial counsel in this private case, and a packet of documents to be reviewed prior to affiant's deposition, accompanied my subpoena. The letter stated that Standard believes it necessary to depose affiant in this private case because certain documents produced by Raymond C. Turnbull during the discovery phase of this private case were not produced by Mr. Turnbull in the Government case. According to the letter, Mr. Turnbull stated when deposed in the current case that a number of documents not produced in the Government case had been made available to the Government in October 1969, that these documents were returned by the Government to Mr. Turnbull by mail without a covering letter[1] and that when Standard subsequently subpoenaed documents from Mr. Turnbull in the Government case, he neglected to look through the documents returned to him by the Government. Thus Standard reasons:

---

[1] Mr. Turnbull's recollection of the circumstances under which his documents were returned by the Government is apparently mistaken (See Par. 5 *infra;* Exhibit 4).

> Because Mr. McCook is relying, in part on the *prima facie* effect of the judgment in the prior case as the basis for his suit against Standard, I am sure that you will appreciate that in view of the testimony of Mr. Turnbull in the discovery proceedings in the present suit concerning the additional documents, it has become necessary for us to take your deposition in the pending suit pursuant to subpoena *duces tecum*, and also to serve a separate subpoena *duces tecum* upon the Department of Justice. (Exhibit 2, p. 1)

4. Standard exhaustively investigated the adequacy of Mr. Turnbull's document production in the Government case during several depositions, including those of Mr. Turnbull and his counsel, Richard B. Lynn. As described in Standard counsel's letter (Exhibit 2), it abandoned this line of inquiry only after several assurances by Mr. Lynn to both Standard and the Government that all documents had been produced and affiant's written assurances to Standard's counsel on May 13, 1971, that "we recall no documents provided to the Government by Mr. Turnbull which were not marked with TU identification returned to Mr. Turnbull and provided for your use" (Exhibit 3). Today, almost five years after making that representation to Standard, affiant still recalls no documents supplied to the Government by Mr. Turnbull during the Government case other than those produced to Standard and is in no position to explain why Mr. Turnbull has now come forward with additional documents.

5. Upon information and belief, the chronology of events regarding the production of Mr. Turnbull's documents in the Government case was as follows. After the Government complaint against Standard was filed on September 30, 1969, in the Northern District of California, affiant, on October 6, 1969, received a telephone call from Raymond C. Turnbull. A meeting was arranged to take place at Mr. Turnbull's place of business, Seaways International Engineering Corporation, Beverly Hills, California, on October 29, 1969. At the meeting, Mr. Turnbull made the following files available to the Government for copying in Washington, D.C. upon condition that they be promptly returned to him:

1. File of correspondence entitled, "Union Bulk Plant —Samoa";
2. File of correspondence entitled, "Summit Industrial Corporation—Correspondence";
3. File of correspondence entitled, "Correspondence Governor Lee 1962-1965".

On November 3, 1969, affiant returned these files to Mr. Turnbull by certified air mail with a covering letter requesting Mr. Turnbull to acknowledge their receipt. A copy of that letter bearing Mr. Turnbull's acknowledgment is attached as Exhibit 4. The Turnbull documents which had been photocopied by the Government were designated TU-1 to TU-100.

6. On October 23, 1969, Standard filed and served upon the Government a Motion For Production of Documents pursuant to Rule 34 of the Federal Rules of Civil Procedure. By agreement of the parties, the Government made available to Standard the non-privileged documents called for by Standard. In addition, the Government's responses to Standard's Requests for Admissions and Interrogatories included extensive factual information and documentation.

7. On April 7, 1970, affiant telephoned Mr. Turnbull and obtained his consent to produce to Standard copies of the Turnbull documents in the Government's possession, *i.e.*, TU-1 to TU-100. On April 13, 1970, affiant transmitted

copies of TU-1 to TU-100 to William E. Mussman, Esquire, trial counsel for Standard in the Government case (Exhibit 5). During pretrial discovery in the Government case, and particularly during its depositions of Mr. Turnbull and his attorney, Richard B. Lynn, Standard repeatedly sought to determine whether there were documents other than TU-1 to TU-100 in Mr. Turnbull's files. Standard, in January, 1971, noticed additional depositions of Messrs. Turnbull and Lynn but cancelled them after receiving Lynn's report that the documents previously marked TU-1 to TU-100 constituted the totality of the Turnbull file (Exhibit 2, p. 2).

8. On April 15, 1971, Standard once again noticed the depositions of Messrs. Lynn and Turnbull (Exhibit 6). On April 16, 1971, Mr. Klitgaard wired affiant that:

> Lynn advises after further conference with Massrs. [sic] McCook and Turnbull they have no further documents responsive to our subpoenas. Lynn also advises that Turnbull turned over his entire file to you from which you extracted documents numbered TU-001—TU-100. Do you have missing documents in your possession? Please advise at once. (Exhibit 7)

Standard, after further discussion with Mr. Lynn, then cancelled the Turnbull and Lynn depositions (Exhibit 8). On April 19, affiant notified Mr. Mussman the Government had provided Standard with all Turnbull documents in the Government's possession, TU-1 to TU-100. [Compare handwritten notes on Exhibit 7 with Exhibit 9].

9. On April 19, 1971, Mr. Mussman wrote affiant explaining the reasons for the events set out in Paragraph 8. He wrote:

> Our telegraphic request was to find out if there were to your knowledge any documents produced from the Turnbull-McCook files for your inspection which you did not copy and produce for us because you believed that they were irrelevant or immaterial to the issues in the case. Because Mr. Lynn told Mr. Klitgaard that he was going to advise you immediately of their conversation, Mr. Klitgaard thought that there would be no chance of your misinterpreting his telegrams. There was no intent to suggest that the Government might be withholding documents; the inquiry was designed to find out if you would stipulate to a production of documents (if any) which you saw or received from Turnbull-McCook and which you did not include in the set numbered "TU-001—TU-100." (Exhibit 9, p.4)

On April 23, 1971, affiant wrote to Mr. Mussman setting forth the Government's understanding that Mr. Lynn had "again searched the relevant files and found no additional responsive documents . . ." (Exhibit 10). On April 26, 1971, Mr. Mussman informed affiant by letter (Exhibit 11) that he had received a telegram from Mr. Lynn which stated:

> Ref Marketing Petroleum American Samoa. Please be advised Messrs. Turnbull and McCook files examined week ending April 17, 1971. You have my assurance that there are no further documents. This assurance is unequivocal and is in no manner dependent upon my independent judgment respecting relevance.

On May 3, 1971, affiant confirmed receipt of Mr. Mussman's April 26, 1971 letter, noting that in light of Mr. Lynn's assurance to Standard there did not appear to be any sound basis for pursuing the matter further (Exhibit 12). On May 5, 1971, Mr. Mussman wrote still another letter (Exhibit 13) requesting the Government's further assurance that no Turnbull or McCook documents other than TU-1 to TU-100 had been received or reviewed (Exhibit 9, p. 5). On May 13, 1971, affiant replied, as stated in

Paragraph 4 *supra,* that the Government could recall no documents provided to the Government by Mr. Turnbull which had not been marked with a TU identification, returned to Mr. Turnbull and provided to Standard (Exhibit 3). On May 18, 1971, affiant received another letter from Mr. Mussman, in which he stated that Standard would not pursue the matter of additional Turnbull documents further (Exhibit 14).

10. On July 20, 1973, following affirmance by the United States Supreme Court of the District Court's decision and Judgment in the Government case, affiant, in the course of returning copies of documents to third parties, sent Mr. Turnbull copies of TU-1 to TU-100 on the assumption that these copies might be of some use to him. As on November 3, 1969 (Exhibit 4), Mr. Turnbull was requested to acknowledge receipt of the documents, which he did (Exhibit 15).

11. As the preceding paragraphs make clear, the only Turnbull documents which affiant can recall receiving prior to the termination of the trial in the Government case are those designated TU-1 to TU-100. Furthermore, it is affiant's information and belief that the Government produced to Standard in the Government case copies of those non-privileged documents in its possession, custody and control which were responsive to Standard's demands at that time.

12. Upon receipt of the current Standard subpoenas, affiant reviewed and caused to be reviewed those Department of Justice and staff files which should contain the documents responsive thereto. As a result of that review, the Department of Justice is voluntarily producing as Appendix A to this Affidavit copies of those responsive non-privileged documents not previously sought by or provided to Standard and certain responsive handwritten notes as to which the Government will not assert any privilege. These include the following categories of documents:

a. Letters and notes of telephone communications prior to the termination of the Government case between the Government and any of the persons designated in the subpoenas;

b. Letters generated in connection with post-judgment proceedings in the Government case;

c. Other documents relating to post-judgment proceedings in the Government case where the Government's records are unclear as to whether Standard has already been supplied with copies;

d. Letters of transmittal relating to the *McCook* case.

BERNARD M. HOLLANDER
Bernard M. Hollander

Subscribed and sworn before me
this 19th day of February, 1976.

(Remainder of jurat
omitted in printing)

j. AFFIDAVIT: MARCH 10, 1976: BERNARD M. HOLLANDER

United States District Court for the
Central District of California

(Title omitted in printing)

SUPPLEMENTAL AFFIDAVIT OF BERNARD M. HOLLANDER

District of Columbia) ss:

Bernard M. Hollander, being first duly sworn, deposes and says:

1. This Supplemental Affidavit is filed in support of a motion for a protective order that notices of deposition be vacated and the discovery not had pursuant to subpoenas *duces tecum* served upon affiant and upon the Department of Justice by Standard Oil Company of California ("Standard") on February 6, 1976. These subpoenas seek deposition testimony and document production by the Department of Justice and affiant in this private treble damage action. The depositions have been continued pending a final determination of this motion.

2. A packet of documents to be reviewed prior to affiant's deposition accompanied my subpoena. Those documents were divided into three categories by Standard:

> "(a) Documents Not Produced in *Government* Case for Standard: Entirely new documents from files of Messrs. Turnbull, McCook, Lynn;"
>
> "(b) Documents Not Produced in *Government* Case for Standard, but Now Produced by Messrs. Turnbull, McCook, Lynn: Different versions, with different notations, et cetera, of documents produced for Standard in *Government* Case as TU-1 to TU-100;"
>
> "(c) Documents Not Produced in *Government* Case for Standard, but Now Produced by Messrs. Turnbull, McCook, Lynn: Different versions, with different notations, et cetera, of documents produced for Standard in *Government* case from files of third parties."

3. As stated in affiant's affidavit dated February 19, 1976, the only Turnbull documents which affiant can recall receiving prior to the termination of the trial in the Government case are those designated TU-1 to TU-100 [Par. 11]. Affiant is in no position to explain why Mr. Turnbull has now come forward with additional documents. Furthermore, to the best of affiant's recollection and belief, Messrs. McCook and Lynn produced no documents to the

Government prior to the termination of the trial in the Government case.

4. Although affiant had occasion to examine thousands of documents in the course of the Government case and has not gone back and reviewed each such document, affiant has reviewed the documents provided by Standard, as Standard's counsel requested. It is affiant's recollection and belief that:

> (a) As to the documents in Standard's category (a), except for the Samoan News Bulletin of October 1, 1969, he does not recall seeing any of the documents in that category in the documents produced prior to the termination of the trial in the Government case. It is affiant's further belief that he would have photocopied the documents in this category had they been made available to affiant by Mr. Turnbull on October 29, 1969.
>
> (b) As to the documents in Standard's category (b), while affiant believes that he has seen copies of these documents prior to the termination of the trial in the Government case, he has no recollection of whether he has ever seen these specific versions of these documents. It is affiant's further belief that he would have photocopied the documents in this category had they been made available to affiant by Mr. Turnbull on October 29, 1969.
>
> (c) As to the documents in Standard's category (c), while affiant believes that he has seen copies of these documents prior to the termination of the trial in the Government case, he has no recollection of whether he has ever seen these specific versions of these documents. It is affiant's further belief that he would have photocopied the documents in this category had they

been made available to affiant by Mr. Turnbull on October 29, 1969.

5. Affiant has reviewed the affidavit of Thomas J. Klitgaard, dated March 5, 1976, filed with Standard's Memorandum in Opposition to Motion by the United States Department of Justice and Bernard M. Hollander, Esq. For A Protective Order. Paragraphs 13 and 14 of Mr. Klitgaard's Affidavit set out questions which, among others, Standard would seek to pose to affiant at his deposition. Affiant's answers to those questions in Paragraph 13 are as follows:

(a) *What did Mr. Turnbull say, and do, in connection with the delivery of documents to the Department of Justice in October, 1969?*

Answer: While affiant is unable to remember the specific details of what Mr. Turnbull said and did in October 1969, it is his general recollection and belief that Mr. Turnbull telephoned affiant on October 6, 1969, as described in Paragraph 5 of affiant's previous affidavit. Affiant has further discovered, since the preparation of that first affidavit, that a second telephone call between affiant and Mr. Turnbull apparently took place on October 22, 1969. During the course of these two conversations, affiant believes that Mr. Turnbull must have been requested to collect his files bearing on the subject matter of the Government case for the meeting of October 29, 1969.

At affiant's brief meeting with Mr. Turnbull on October 29, 1969,[1] it is affiant's recollection that Mr. Turnbull made available three files, the files referred to in affiant's letter to Mr. Turnbull dated November 3, 1969 [Hollander Affidavit, Par. 5; Exhibit 4]. That recollection is further reinforced by the discovery of a handwritten copy of a receipt given to Mr. Turnbull by affiant on October 29, 1969, attached hereto as Exhibit 1.

In addition, Mr. Turnbull mentioned at that meeting that William R. McCook, of whom affiant believes he had never previously heard, had a file with a proposal for Governor Lee on putting in a bulk petroleum plant in American Samoa. It is affiant's recollection and belief that Mr. Turnbull said that his counsel, Howard L. Winton, would send a copy of the proposal to affiant [See Appendix to Hollander Affidavit, A-1, 2].[2]

It is affiant's further recollection and belief that affiant took with him only the three files referred to above. Had any "loose" documents in addition to the three files, or any additional files of documents been given to affiant, they too would have been listed in the receipt (Exhibit 1 attached hereto) and in the return letter (Exhibit 4 to Hollander Affidavit).

(b) *In discussions with Mr. Hollander in October, 1969, did Mr. Turnbull say that he had collected any documents from Mr. McCook, or from Mr. Lynn?*

Answer: No, to the best of affiant's recollection and belief.

(c) *What did Mr. Hollander ask Mr. Turnbull to do in connection with collecting documents?*

Answer: See answer to paragraph (a) herein.

(d) *In receiving the files from Mr. Turnbull in 1969, did*

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[1] It is affiant's information and belief that Mr. Turnbull testified at his deposition in this private case that the meeting with affiant lasted about half an hour. [Turnbull Dep. 11/25/75, at 359]. This accords with affiant's recollection.

[2] Inadvertently, affiant's notes of this meeting were incorrectly characterized as notes of a telephone communication in the Appendix to affiant's previous Affidavit. [Hereafter "Hollander Affidavit"].

Mr. Hollander photocopy all the documents in the files and return them to Mr. Turnbull?

Answer: It is affiant's recollection and belief that he did not receive any documents other than those in the three Turnbull files, as set out in Paragraph 5 of affiant's first affidavit. Further, while affiant has no specific recollection, he believes that all the documents in those three files were photocopied and the originals returned to Mr. Turnbull on November 3, 1969. Copies of all the documents photocopied were subsequently designated as TU-1 to TU-100 and copies provided to Standard on April 13, 1970.

(e) *Was Mr. Hollander given any loose documents by Mr. Turnbull, apart from documents in files?*

Answer: No, to the best of affiant's recollection and belief. See affiant's answer to (a) above.

(f) *Were any documents returned to Messrs. Turnbull McCook, Lynn, or any attorneys for these individuals, without a covering letter, after October, 1969? What records are there in the Department of Justice which would provide an answer?*

Answer: No, to the best of affiant's recollection and belief. Further, it is affiant's information and belief that the Department of Justice has no records which would show the transmittal of documents to these individuals without a covering letter.

(g) *Were there any discussions about production of documents in the Government case with Messrs. Lynn, McCook at the meeting after the Lynn-McCook depositions on March 23, 1971?*

Answer: Affiant has no recollection of any meeting with Messrs. McCook and Lynn after the Lynn-McCook depositions on March 23, 1971.

(h) *Were there any discussions concerning the production of documents in the Government case with Mr. Jones, either at the meeting with Mr. Hollander on March 25, 1971, or at any other time?*

Answer: No, to the best of affiant's recollection and belief.

(i) *On how many occasions did Mr. Hollander meet Mr. Turnbull in connection with the Government case?*

Answer: Twice, to the best of affiant's recollection and belief. The first meeting took place on October 29, 1969; the second on October 1, 1970, during the Turnbull deposition.

(j) *On any of the occasions when Mr. Hollander met Mr. Turnbull, did Mr. Turnbull discuss the facts, or statements, contained in documents not produced in the Government case?*

Answer: It is impossible to answer the question as written.

(k) *What explanation was given by Messrs. Turnbull, McCook, Lynn or Jones to the Department of Justice concerning the failure to produce documents in the Government case?*

Answer: None, to the best of affiant's recollection and belief.

(l) *In being shown the original copies of the documents not produced in the prior case, is Mr. Hollander's recollection refreshed as to whether he may have seen any such documents on some prior occasion?*

Answer: See Paragraph 4 *supra.*

(m) *In Exhibit 4 to the affidavit of Mr. Hollander, a transmittal letter dated November 3, 1969, to Mr. Turnbull from Mr. Hollander, to what additional document was Mr. Hollander referring in this letter? Did he receive the document?*

Answer: It is affiant's recollection and belief that he was referring to a proposal to the Government of American Samoa by Mr. McCook concerning the construction of a bulk petroleum plant in American Samoa, apparently mentioned by Mr. Turnbull [See Appendix to Hollander Affidavit, A-1, 2, and Standard's Memorandum, p. 22, lines 3-17]. It is affiant's further recollection and belief that this document was transmitted to affiant by Howard L. Winton through the mail with the memo notation "Re: United States v. Standard Oil From the files of Mr. Turnbull" in December, 1969 [See Appendix to Hollander Affidavit, A-5].

The proposal was later designated as part of the documents TU-1 to TU-100 and a copy was produced to Standard on April 13, 1970.

(n) *Were any documents collected from Messrs. Turnbull, McCook, or their representatives in investigations prior to filing the complaint in the Government case, not later marked with "TU" identification numbers?*

Answer: It is affiant's recollection and belief that no documents were collected from Messrs. Turnbull, McCook or their representatives in the investigation undertaken by affiant and his staff prior to the filing of the complaint in the Government case.

(o) *Were there discussions with Mr. Turnbull concerning production of the fourteen enclosures to the October 3, 1973 letter?*

Answer: No, to the best of affiant's recollection and belief. The 14 enclosures accompanying Mr. Turnbull's letter of October 4, 1973, were returned to Mr. Turnbull by mail with a covering letter on October 18, 1973. [See Appendix to Hollander Affidavit, A-22].

(p) *What documents did Mr. Hollander receive from Howard L. Winton, Esq., attorney for Mr. Turnbull, in December, 1969?*

Answer: See answer to question (m) *supra.*

6. Affiant's answers to those questions in Paragraph 14 of the Klitgaard Affidavit are as follows:

(a) *Is the Department of Justice voluntarily producing all non-privileged documents within the scope of the subpoena, or is it voluntarily producing only part of the documents?*

Answer: As stated in affiant's previous affidavit, Paragraph 12, the Department of Justice is voluntarily producing copies of those responsive non-privileged documents not previously sought by or provided to Standard and certain responsive handwritten notes as to which the Government would not assert any privilege.

Thus, it is affiant's information and belief that the Department of Justice is voluntarily producing only part of the documents called for by the subpoenas. Withheld in addition to all other privileged documents are those non-privileged documents which the Government has already produced to Standard in the Government case.

(b) *In paragraph 5 of the affidavit, Mr. Hollander states that "Turnbull documents which had been photocopied by the Government were designated TU-001 - TU-100"; were any documents in the files not photocopied by the Government and returned to Mr. Turnbull?*

Answer: It is impossible to answer the question as written. However, see answer to Question 5(d).

(c) *In paragraph 11 of the affidavit, Mr. Hollander states that the only Turnbull documents which he can recall seeing prior to the termination of the trial in the Government case were those designated TU-001 to TU-100; did the Department of Justice receive documents relating to the period 1961-1965 from Messrs. Turnbull, McCook, or their representatives, after the trial in the Government case, in addi-*

tion to TU-001 to TU-100, or in addition to the fourteen enclosures with the October 4, 1973 Turnbull letter?

Answer: It is affiant's recollection and belief that, except for public pleadings filed with the Court in this private action, the only other documents received by the Department of Justice from Messrs. Turnbull, McCook or their representatives relating to the period 1961-65, after the trial in the Government case, was a packet of photocopied documents apparently produced to Standard in this private case. These documents were transmitted by a covering letter dated November 18, 1975, which has already been supplied to Standard as A-60 to affiant's previous affidavit.

It is affiant's information and belief that Standard's counsel has telephonically requested the Government to supply him with copies of these documents. It is affiant's further information and belief that copies of these documents were mailed to counsel for Standard by transmittal letter on March 9, 1976, a copy of which is attached hereto as Exhibit 2.

(d) *Are the Department of Justice or Mr. Hollander withholding any documents under claim of privilege; do the withheld materials relate to earlier productions of documents by Messrs. McCook, Turnbull, or Lynn?*

Answer: It is affiant's information and belief that the Department of Justice and affiant are withholding privileged documents.

It is impossible to answer the second part of this question since it is impossible for affiant to determine what is meant by the words "relate to earlier productions of documents."

7. Affiant has reviewed Standard's memorandum in opposition. Standard has made a factual error based on affiant's handwritten notes appended to his previous affidavit. On pages 16 and 28 of Standard's memorandum, Standard refers to a memorandum dated January 18, 1971. It is affiant's belief that the document in question is dated January 15, 1971, and refers to a conversation between affiant and Mr. Lynn. [Appendix to Hollander Affidavit, A-6]. It is affiant's recollection and belief that Mr. Lynn was informing affiant that Mr. Lynn had told Mr. Mussman that there were no documents other than those marked "TU."

BERNARD M. HOLLANDER
BERNARD M. HOLLANDER

Subscribed and sworn to before
me this 10th day of March, 1976.

(Remainder of jurat
omitted in printing)

D. MISCELLANEOUS DOCUMENTS AND TRANSCRIPTS (Excerpts).

1. United States of America v. Standard Oil Company of California, United States District Court, Northern District of California, Civil No. 52334-SC

a. CORRESPONDENCE WITH THE HONORABLE SAMUEL CONTI

i. Letter Dated February 23, 1976, by Counsel for Government

February 23, 1976

Honorable Samuel J. Conti
United States District Judge
United States District Court
Northern District of California
San Francisco, California 94102

Re: United States v. Standard Oil Company
of California, Civil 52334-SC (N.D. Cal.)

Dear Judge Conti:

Because matters relating to your Final Judgment in the above-entitled action are being litigated in the Central District of California before Judge Pregerson in *McCook v. SoCal,* a related case, we are taking the liberty of enclosing for your information a copy of the Government's Motion for a Protective Order which was filed on February 20, 1976.

Sincerely yours,

Thomas E. Kauper
Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander, Chief,
Judgments and Judgment
Enforcement Section

Enclosure
cc: Thomas J. Klitgaard, Esq.
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

---

ii. Letter Dated March 17, 1976, by Counsel for Standard

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March 17, 1976

The Honorable Samuel Conti
Judge of the United States
District Court
Northern District of California
U.S. Courthouse
450 Golden Gate Avenue
San Francisco, California 94102

Re: United States of America v. Standard Oil Company of California, No. C-52334 SC

Dear Judge Conti:

In May, 1974, after the judgment of Your Honor in *United States of America v. Standard Oil Company of California* (N.D.Cal. 1972) 362 F.Supp. 1331, was affirmed by the Supreme Court, *Standard Oil Company of California v. United States* (1973) 412 U.S. 924, a Mr. William R. McCook filed a treble damage action against Standard, Van Camp Sea Food Company, Star-Kist Foods, Inc., and Pan American World Airways, Inc., in the United States District Court for the Central District of California, based upon the judgment in the prior *Government* case. The plaintiff, relying on Section 5(a) of the Clayton Act, based his action against Standard principally upon the judgment and findings in the prior *Government* case, including a finding to the effect that the plaintiff had been excluded from the market in American Samoa by Standard's conduct.

The complaint sought damages in excess of $3,000,000 before trebling. The case was assigned to the Honorable Harry Pregerson.

In the first few months after the complaint was filed, the plaintiff filed a motion for summary judgment against defendant Standard on the issue of liability, claiming that the judgment in Your Honor's case should be conclusive upon Standard as to liability because Standard had not been able to come forward with any new evidence to show why a different result should obtain. Judge Pregerson denied the motion for summary judgment, holding that the judgment in the prior case created only a rebuttable presumption, and that defendant Standard was entitled to present a full defense to the plaintiff's claims in his Court, as permitted by Section 5(a) of the Clayton Act.

In the period after the denial of the motion for summary judgment, Standard initiated discovery proceedings against plaintiff, including a request for production of documents. In response to the request, the plaintiff produced, from his own files, and from the files of Mr. Raymond C. Turnbull, his partner or agent in the proposed venture in American Samoa, a number of important new documents which contradicted plaintiff's testimony in the prior *Government* case, and which were relevant to this Court's findings on liability and foreclosure. Subpoenas duces tecum to Mr. Lynn, an attorney who represented plaintiff in the *Government* case, and to Mr. Raymond C. Turnbull, plaintiff's partner or agent, who assisted plaintiff in collection of data in the *Government* case for the Department of Justice, produced still further documents which were important and material to the issues in the *Government* case. None of these documents were produced by the plaintiff, his agents or attorneys in the *Government* case, despite

repeated demands upon the plaintiff by Standard, and despite subpoenas duces tecum served upon plaintiff and his attorney. At the time of the prior *Government* case, it was plain that plaintiff was contemplating bringing suit against Standard based upon the eventuality that a judgment might be entered in the *Government* case adverse to Standard, and plaintiff's partner or agent, Mr. Turnbull, supplied a number of documents to the Department of Justice, which in turn were used in evidence in the case pending in Your Honor's Court.

In the course of discovery in the present case, in response to questions concerning the location and identity of documents and the reasons for failure to produce the new documents in the *Government* case, the plaintiff's partner, Mr. Turnbull, has tended to lay the blame on Mr. Hollander and the Department of Justice. Mr. Turnbull has testified, in substance, that he made his files concerning petroleum products available to Mr. Hollander in October, 1969, that Mr. Hollander took the files with him, and that Mr. Hollander thereafter returned the documents in the files in two separate packages. Mr. Turnbull, in laying the blame on Mr. Hollander, has testified that in making subsequent searches in the *Government* case for documents responsive to Standard's requests and subpoenas, he did not look in the materials sent back to him by Mr. Hollander, because he thought that copies of these documents had already been supplied to Standard, but looked through other files and found no additional documents; he testified that when he collected documents for plaintiff's lawyers in the present case, he turned over to the lawyers the documents that Mr. Hollander had returned to him. At his deposition, Mr. Turnbull identified a number of documents which he claims were in his files in October, 1969, and which he claims he made available to Mr. Hollander in the *Government* case, but which were not later delivered to Standard in the *Government* case.

Because of the testimony by Mr. Turnbull, and because of the failure of Mr. McCook, Mr. Turnbull, and Mr. Lynn to have produced the documents in the prior case, and in view of the contradictions between the documents and the testimony of Mr. McCook in the *Government* case, Standard sought to take the depositions of the Department of Justice and Mr. Hollander in the *McCook* case, to determine if either of these deponents had additional documents not yet produced by Mr. Turnbull or Mr. McCook, and to determine what, in fact, Mr. Turnbull, Mr. McCook and Mr. Lynn had told Mr. Hollander in 1969 concerning the production of documents. Also, it was Standard's purpose to see if Mr. Turnbull, Mr. McCook and his attorney were lying in the present case when they described the discovery procedures in the *Government* case, and when they sought to excuse their failure to produce documents in the *Government* case either by asserting that the documents were in separate files, or that they assumed that Mr. Hollander had made them available to Standard. In response to the notices of deposition, the Department of Justice and Mr. Hollander filed a motion for a protective order, attaching to the motion certain additional new documents which Mr. Turnbull had produced for the Department of Justice in October, 1973, within four months after the judgment of Your Honor was affirmed by the Supreme Court. None of these documents had previously been turned over to Standard by Mr. Turnbull or Mr. McCook in the *Government* case, despite repeated requests, or (with one exception) in the present case, despite requests for production and subpoenas duces tecum. Indeed, in the six days of the deposition of Mr. Turnbull in the present case concerning the production of documents, Mr. Turnbull claimed that he had no other documents. The

additional new documents, like the previously produced new documents, contain important and relevant new information, not presented to Your Honor.

The Department of Justice and Mr. Hollander opposed the request by Standard to take their depositions in the present case, on the ground that the depositions were intended only to harass and annoy the Department of Justice and Mr. Hollander, and on the further ground that by affidavit filed before Judge Pregerson, Mr. Hollander had set forth all he knew about the discovery from Messrs. Turnbull, Lynn, and McCook in the *Government* case. Further, the Department of Justice and Mr. Hollander told Judge Pregerson that Standard's remedy for newly discovered evidence was a motion in Your Honor's Court, pursuant to Rule 60(b), Federal Rules of Civil Procedure. At a hearing on March 15, 1976, Judge Pregerson granted the motion for the protective order; however, in the course of denying Standard the right to take the depositions of the Department of Justice and Mr. Hollander at the hearing on March 15, Judge Pregerson stated that the papers filed in his Court raised serious questions as to the integrity of the proceedings and judgment in the *Government* case, which ought to be brought to Your Honor's attention.*

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*Standard will file a request with Judge Pregerson for reconsideration of his ruling, on the grounds, *inter alia,* that the tests to be used in the *McCook* case as to whether plaintiff should be permitted to use the judgment in the *Government* case as evidence, where he had earlier failed to produce documents, are different than the standards that might be applied by this Court, or by the United States Supreme Court, in vacating the judgment or amending the findings in the *Government* case on the grounds of fraud, newly discovered evidence, or the like. In the *McCook* case, it is Standard's position that Mr. Cook should not be permitted to use the judgment in the prior case as evidence against Standard, (a) where Standard did not have a full and fair opportunity to defend (*Blonder-Tongue v. University Foundation* (1971) 402 U.S.

For Your Honor's information, we are enclosing copies of the following memoranda, exhibits, and affidavits which were filed in the United States District Court for the Central District of California following the opening memorandum, exhibits and affidavit of the Department of Justice and Mr. Hollander, copies of which have already been sent to you by Mr. Hollander:

(a) Memorandum by Defendant Standard Oil Company of California in Opposition to Motion Pursuant to Federal Rule 26(c)(1) for a Protective Order that Defendant's Notices of Deposition of the Department of Justice and Bernard M. Hollander, Esq., be Vacated and the Discovery Not Had, dated March 5, 1976;

(b) Affidavit of Thomas J. Klitgaard in Support of Memorandum by Standard Oil Company of California in Opposition to Motion by United States Department of Justice and Bernard M. Hollander, Esq., for a Protective Order, dated March 5, 1976;

(c) Exhibits to Memorandum by Defendant Standard Oil Company of California, dated March 5, 1976;

(d) Corrections to Memorandum by Defendant Standard Oil Company of California in Opposition to Motion Pursuant to Federal Rule 26(c)(1) for a Protective Order that Defendant's Notices of Deposition of the Department of Justice and Bernard M. Hollander, Esq., be Vacated and the Discovery Not Had, dated March 5, 1976;

(e) Government's Reply Memorandum in Support of its Motion for a Protective Order that Defendant's Notices of Deposition of the United States Department of Justice and Bernard M. Hollander, Esq., be Vacated and the Discovery Not Had, dated March 10, 1976;

(f) Supplemental Affidavit of Bernard M. Hollander, Esq., dated March 10, 1976; and

(g) Standard's Request for Reconsideration of Order, or, in the Alternative, Request for Certification of Order for Interlocutory Appeal Pursuant to Section 1292(b), Title 28, United States Code, dated March 17, 1976.

In view of the comments by Judge Pregerson during the hearing on March 15, 1976, we respectfully request a conference with Your Honor at the early convenience of the Court.

Respectfully yours,

Thomas J. Klitgaard

Encs.

cc: The Honorable Harry Pregerson (w/o enc.)
United States District Court
Central District of California

Anthony E. Desmond, Esq. (w/o enc.)
Bernard M. Hollander, Esq. (w/o enc.)
Kindel & Anderson (w/o enc.)
Attn: Kevin F. [illegible]ne, Esq.

Defense Counsel (w/o enc.)

313, 334; *Rachal v. Hall* (5 Cir. 1970) 435 F.2d 59, 62-63, certiorari denied (1971) 402 U.S. 904; (b) where the plaintiff ignored the subpoenas duces tecum in the *Government* case and failed to produce all relevant documents, and thus because of his unclean hands may not later rely upon that judgment as evidence in his own suit (e.g., *Keystone Co. v. Excavator Co.* (1933) 290 U.S. 240, 244; *Shawkee Mfg. Co. v. Hartford Co.* (1944) 322 U.S. 271, 273); and (c) where the probative value of the judgment as evidence is outweighed by the danger of prejudice to Standard because of the incomplete record in the *Government* case (Rule 403, Federal Rules of Evidence).

iii. Letter Dated March 19, 1976, by Counsel for McCook

KINDEL & ANDERSON

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JOSEPH M. KINDEL, JR.
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REFER TO FILE NO.
06941-5 000 535 033

March 19, 1976

The Honorable Samuel Conti
Judge of the United States District
Court
Northern District of California
United States Courthouse
450 Golden Gate Avenue
San Francisco, California 94102

Re: United States of America v.
Standard Oil Company of California
No. C-52334 SC

Dear Judge Conti:

Although our client, William R. McCook, is not a party to the above-referenced action (hereinafter "*Government* case"), we have received from counsel for Standard Oil Company a copy of their letter to Your Honor of March 17, 1976 and we feel that some brief response thereto is appropriate on behalf of our client.

As stated by Standard Oil's counsel, Judge Pregerson has now granted a protective order to the Department of Justice and to Bernard M. Hollander in connection with proposed "documents" discovery by Standard Oil. We appeared and argued in support of this motion on two principal grounds: (1) that these purportedly "new" documents which we have provided to Standard Oil's counsel are entirely without relevance to Standard's defense in either the *Government* case or in the presently pending treble damages action by our client; and (2) that in any event, Standard Oil's avowed purpose in seeking this discovery—to lay a foundation for a motion before Judge Pregerson to exclude the *prima facie* effect accorded to the judgment rendered in the *Government* case by Section 5(a) of the Clayton Act—constitutes an impermissible collateral attack upon that judgment which can only be made, if at all, before Your Honor.

Judge Pregerson essentially agreed with both of the foregoing grounds and suggested to Standard Oil's counsel that, in light of Your Honor's prior extensive involvement in the *Government* case, any question concerning the propriety of the judgment rendered therein should be considered by Your Honor. However, we wish to make it clear that, as has been repeatedly the case in the past, Standard Oil's counsel have grossly misstated the facts relating to the current dispute in the following particulars, among others:

(1) none of the documents produced and cited by Standard Oil contain any "new" or "important" information not

previously presented to Your Honor (see pp. 13-17 of enclosed transcript);

(2) Mr. Turnbull has at no time and in no sense laid any "blame" on Mr. Hollander or the Department of Justice (see pp. 41-43 of enclosed transcript);

(3) Judge Pregerson merely commented that Standard Oil's counsel were making serious allegations concerning the propriety of the judgment in the *Government* case, while expressing no opinion as to the validity of those allegations and, on the contrary, expressly leaving any determination of such validity for any proceeding which Standard Oil might choose to institute before Your Honor (see pp. 37-38 and 47 of enclosed transcript).

Judge Pregerson's ruling on this matter on March 15, 1976 is simply that Standard Oil is free to introduce in the action brought by our client any and all evidence relevant to their defense but that, as long as the judgment in the *Government* case stands, it "shall", pursuant to Section 5(a) of the Clayton Act, constitute *prima facie* evidence in our client's lawsuit (see p. 27, lines 22-24 and p. 37, lines 12-15 of the enclosed transcript).

We submit that this ruling is correct and, additionally, that there is no reason for Your Honor to alter in any fashion the results produced by the lengthy proceedings in the *Government* case. For these reasons, we request notice and the opportunity to appear before Your Honor in connection with any conference or hearing which may be held concerning this matter.

Finally, in the interests of preventing any further misstatements of the pertinent facts, we are enclosing for Your

Honor's convenient reference a copy of the transcript of the proceedings before Judge Pregerson on March 15, 1976.

Very truly yours,

Kevin P. Kane
of Kindel & Anderson

KPK:sb
Enclosure
cc: The Honorable Harry Pregerson w/o encl.
United States District Court
Central District of California

Anthony E. Desmond, Esq. w/o encl.
Bernard M. Hollander, Esq. w/o encl.
Stanley M. Gorinson w/o encl.
All Defense Counsel w/o encl.

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iv. Letter Dated March 24, 1976, by Counsel for Government

March 24, 1976

The Honorable Samuel Conti
United States District Judge
United States District Court
Northern District of California
San Francisco, California 94102

Re: United States v. Standard Oil Company of California, Civil 52334-SC (N.D. Cal.)

Dear Judge Conti:

As counsel have already informed you, the Honorable Harry Pregerson, United States District Judge for the Central District of California, on March 15, 1976, granted a protective order vacating notices of deposition and subpoenas served pursuant thereto upon the Department of Justice and Bernard M. Hollander by Standard Oil Company of California ["Standard"] in a private treble damage action entitled *McCook v. Standard Oil Company of California,* (CV 74-1190 HP, C.D. Cal.). During the course of the hearing, Judge Pregerson observed that certain suggestions by Standard regarding possible improprieties by the Government in the above-entitled Government case should, if true, properly be brought to the attention of Your Honor. Let me say flatly that these suggestions of impropriety are without foundation.

Standard's asserted need for discovery of the Department of Justice and its counsel, as set forth in its letter of March 17, 1976 (pp. 2-3), is that documents now produced by Mr. Turnbull, an associate of Mr. McCook, which he said he made available to the Government in October 1969, were not delivered to Standard in the course of the Government's case. Standard makes this assertion in the face of Mr. Turnbull's testimony during his deposition on document production in the private case, which consumed 6 days and more than 1200 pages, that he did not remember what he had supplied to the Government at that time. [Transcript of March 15, 1976 Hearing, at 41-43]. Moreover, as made clear in my sworn affidavit of February 19, 1976 in the private case, the only Turnbull documents I can recall receiving prior to the termination of the trial in the Government case* were turned over to Standard on April 13, 1970.

[Hollander Affidavit, Pars. 7 and 11]. Moreover, as also stated in my affidavit, to the best of my information and belief, copies of those non-privileged third party documents which were responsive to Standard's demands at that time, including those supplied by various departments of the Government and the Government of American Samoa, were turned over to Standard prior to trial. [Hollander Affidavit, Par. 11].

Interestingly enough, the only "additional new documents" not turned over to Standard by the Government which Standard points to as assertedly "contain[ing] important and relevant new information, not presented to Your Honor", are 14 enclosures to Mr. Turnbull's post-Judgment letter of October 4, 1973, a letter which set out his comments on the plan for sharing the petroleum storage facilities in American Samoa. Your Honor will recall that the Government was instructed to turn over any such comments on the plan to Standard, and it did so promptly. However, since the enclosures did not deal in any way with the plan, they were promptly returned to Mr. Turnbull by cover letter of October 18, 1973. [Appendix to Hollander Affidavit, A-22]. Moreover, the subject matter of these enclosures was described in Mr. Turnbull's letter, which explicitly indicated that there were 14 enclosures. [A copy of the Turnbull letter is attached.] At no time during the long period of negotiations concerning the plan did Standard ever make any request for these enclosures.

Obviously, the Government is anxious to have this matter cleared up and have Standard's innuendos laid to rest once and for all. We would suggest, however, that the proper method for dealing with this matter is not to hold a conference but to require Standard to set forth in a motion to this Court the relief it seeks and the basis for seeking such relief.

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*To the best of my recollection, Mr. Turnbull produced three files of documents at a brief meeting on October 29, 1969. That recollection is reinforced both by my letter of November 3, 1969, returning those three files, receipt of which was acknowledged by Mr. Turnbull on November 18, 1969, and by a copy of my handwritten receipt listing those same three files, dated October 29, 1969. Copies of both documents, which were provided to Standard as exhibits to my affidavits in the private case, are attached.

Sincerely yours,

THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division

By: Bernard M. Hollander, Chief
Judgments and Judgment
Enforcement Section

Attachments

cc: The Honorable Harry Pregerson
Kevin P. Kane, Esquire
Angelo Palmieri, Esquire
Thomas J. Klitgaard, Esquire
William E. Mussman, Esquire

---

v. Letter Dated April 5, 1976, by Counsel for Standard

April 5, 1976

The Honorable Samuel Conti
Judge of the United States District Court
Northern District of California
United States Courthouse
450 Golden Gate Avenue
San Francisco, California 94102

Re: United States of America v. Standard Oil Company of California, No. C-52334 SC

Dear Judge Conti:

In response to the letter to Your Honor from the Department of Justice dated March 24, 1976, and the letter from counsel for the treble damage plaintiff, William R. McCook, dated March 19, 1976, we note the following facts. First, there were documents withheld from the Court and from Standard in the prior case, which were in the files of Messrs. Turnbull, McCook, and their lawyers, and which were not produced despite repeated requests by Standard, and despite subpoenas duces tecum served upon Mr. McCook and his attorney Lynn. Second, the information in the documents which were withheld undermined, and contradicted, the testimony of Messrs. McCook and Turnbull in the prior case; the documents put in a different context the evidence designated by the Department of Justice for inclusion in the record and which was cited, in part, by the Court in its findings.

We note, briefly, a few of the statements made by the Department of Justice and Mr. McCook in their recent letters to the Court, as follows:

A. DEPARTMENT OF JUSTICE.

1. Recollection of Turnbull:

The letter from the Department of Justice misrepresents some 1200 pages of testimony by Mr. Turnbull with respect to the production of documents in two ways. *First,* the letter states that Mr. Turnbull, in approximately 32 lines of that testimony, stated that he "did not remember" what documents he had supplied to the Government in October, 1969. That is not what Mr. Turnbull testified. In those 32 lines Mr. Turnbull testified that he did not remember whether Mr. Hollander, at Mr. Turnbull's office in October, 1969, looked through the documents at the office, or whether Mr. Hollander excluded documents from the files at the office. *Second,* and more importantly, the letter isolates only a fraction of Mr. Turnbull's testimony and thereby misrepresents his testimony by failing to refer to other significant portions of that testimony.

The testimony by Mr. Turnbull concerning the production of documents in October, 1969, is set forth, in detail, in the reply by Standard to the Department of Justice's memorandum in opposition to Standard's request, filed with The Honorable Harry Pregerson, for reconsideration of the order entered March 15, 1976, denying Standard discovery from the Department of Justice and Mr. Hollander, and in the exhibits to the reply. We have delivered a copy of the reply, and of the exhibits, to Your Honor; we do not repeat their contents here.

2. Failure to Produce Post-Judgment Documents:

The Department of Justice states that the "only" additional new documents, not turned over to Standard by the Government, which Standard points to as containing important and relevant new information, were the 14 enclosures to Mr. Turnbull's post-judgment letter to the Department of Justice dated October 4, 1973. The Department of Justice is in error.

In the prior case, there were two sets of documents in question. First, there were documents which were in Mr. Turnbull's files in October, 1969, and which, according to Mr. Turnbull, were made available to the Department of Justice. This was one group of documents.

Second, there was a second group of documents delivered to the Department of Justice post-trial, within four months after the judgment was affirmed. These documents, which related to the time period 1963-1965, were directly responsive to the subpoenas duces tecum which had been served upon Mr. McCook and Mr. Lynn, and to the repeated requests by Standard to the Department of Justice for any additional documents during the course of the *Government* case. Instead of bringing these documents to the attention of Your Honor, or of Standard, the Department of Justice returned them to Mr. Turnbull. In returning the documents, however, the Department made copies of them, which it retained in its files.

The Department of Justice states that the subject matter of the second group of documents—the 14 enclosures—was described in Mr. Turnbull's letter dated October 4, 1973. While the Turnbull letter referred to the 14 enclosures, it did not show that they concerned matters during the time period 1963-1965; instead, the letter indicated that the documents referred to current business matters, which the Department of Justice had requested be kept confidential. Further, Your Honor had ordered the Department of Justice to produce for Standard copies of the correspondence from petroleum suppliers concerning the proposed plan for sharing the petroleum storage facilities; in disregard of the order, the Government did not provide the 14 enclosures.

3. Lack of Interest in Seeking Immediate Resolution of Dispute:

The Department of Justice states that the Government is "anxious" to have this matter cleared up with respect to the failure to produce documents in the *Government* case. In these circumstances, we do not understand why the Department of Justice is willing to acquiesce in, or promote, the use of the prior judgment in the pending treble damage suit, where there was a plain failure to produce documents by Mr. McCook in response to subpoenas duces tecum.

The Department of Justice refers to Standard's statements as "innuendos"; on the contrary, Standard is dealing in facts. The facts, as developed to date, show a withholding of evidence in the prior case; the facts show the following:

(a) A failure by Messrs. Turnbull and Lynn to produce documents in their files;

(b) A failure by the Department of Justice to produce documents delivered to it by Mr. Turnbull (if Mr. Turnbull is to be believed) prior to trial;

(c) A failure by the Department of Justice, as shown by its own internal records, to produce documents which it received within one year after judgment, which were responsive to subpoenas duces tecum served upon Messrs. McCook and Lynn, and which contradicted the representations that Mr. Turnbull had no further documents.

In sum, the Department of Justice was aware, at some point, that there were new documents in the files of Turnbull and McCook, but did not bring this matter to the attention of this Court or of Standard.

In each of the listed instances, the failure to produce documents in the *Government* case is shown by simple fact, not by innuendo.

B. McCOOK.

1. New and Important Documents:

In his letter dated March 19, 1976, to Your Honor, McCook states that none of the documents produced and cited by Standard contain any "new" or "important" information not previously presented to Your Honor. We disagree. First, there is no dispute that the documents contain new information; second, it cannot be said that the information is not important when it contradicts the testimony of Mr. McCook in the prior case.

On March 29-30, 1976, Standard took the depositions of two lawyers in San Diego retained by Mr. Lynn in 1970, on behalf of Turnbull and McCook, to investigate a possible claim against Standard, based upon a possible judgment in the *Government* case. In the files of the two attorneys, we discovered still further copies of new documents which had not been produced in the *Government* case; in addition, we found further new and different documents not produced in the prior case and likewise not yet produced in the present case, but which had been delivered to the lawyers in 1970 by Mr. Turnbull. The information in these documents puts a different light on the interest of Turnbull and McCook in Samoa, and on the interest of a third party, Shell, which was referred to in Your Honor's findings.

2. Blame on Hollander:

McCook states that Mr. Turnbull has at no time laid any "blame" on Mr. Hollander or the Department of Justice for failure to produce documents in the prior case. This statement is contrary to Mr. Turnbull's testimony; he has testified that when he looked in his files in the prior case for documents for Standard, and for Mr. Lynn, he did not look in the documents which had been returned to him by the Department of Justice. He stated that he did not look in the documents delivered to the Department of Justice, because he assumed that they had already been made available to Standard.

Further, Mr. Turnbull testified in the present case that he did not deliver to Lynn or the two attorneys in San Diego any documents that he did not provide to Mr. Hollander; yet in the files of Mr. Lynn and the two lawyers in San Diego, there were documents which the Department of Justice did not deliver to Standard in the prior case.

3. Comment by Judge Pregerson:

Mr. McCook states that Judge Pregerson, at the hearing on March 15, 1976, "merely commented" that Standard was making serious allegations concerning the propriety of the judgment in the *Government* case, while expressing no opinion as to the validity of the allegations. In fact, Judge Pregerson stated that

> "it just seems to me that what you are saying is attacking the integrity of the process, the integrity of the Justice Department, the integrity of Judge Conti's ruling. And if I were Judge Conti I would certainly want to know about it" (Tr., pp. 37-38).

And, he added:

> "I certainly think that he [Judge Conti] not only has an interest in the matter, because he did decide the case, but that some serious questions have been raised concerning the integrity of that case, and those matters ought to be laid before him under Rule 60" (Tr., p. 47).

CONCLUSION

In view of the failure by Messrs. McCook, Turnbull, and Lynn, and the Department of Justice, to produce documents in the *Government* case, and in view of the fact that a judgment of the Supreme Court is involved, we believe that a conference with Your Honor would be appropriate to determine what steps can, or should, be initiated in the prior case.

Respectfully yours,

Thomas J. Klitgaard

cc: The Honorable Harry Pregerson
United States District Court
Central District of California

Anthony E. Desmond, Esq.
Bernard M. Hollander, Esq.
Kindel & Anderson
Attn: Kevin P. Kane, Esq.

Defense Counsel

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vi. Letter Dated April 15, 1976, by the Honorable Samuel Conti

United States District Court
Northern District of California
San Francisco, California 94102

Chambers of
Samuel Conti
United States District Judge

April 15, 1976

Re: U.S. v. Standard Oil Company
of California, C-52334 SC

Gentlemen:

As far as I am concerned, this case is closed. All correspondence regarding *McCook v. Standard Oil Company of California*, CV-74-1190 HP, C.D.Cal., should be addressed to Judge Pregerson.

Yours very truly,

Samuel Conti
U.S. District Judge

Bernard M. Hollander, Esq.
U.S. Dept. of Justice

Thomas J. Klitgaard, Esq.
Pillsbury, Madison & Sutro.

b. POST TRIAL BRIEFS (EXCERPTS)

i. United States, Filed September 11, 1972

United States District Court for the
Northern District of California

United States of America,
Plaintiff,
v.
Standard Oil Company of California,
Defendant.

Civil Action
No. 52334-SC

* * * * * * * *

Numerous petroleum companies, beginning in 1955 and continuing to the present, have considered entry into the Samoan market. Because of SoCal's already dominant position in American Samoa, stemming from the extremely favorable 1956 permit and agreement which it gained by highly questionable means, and from SoCal's illegal requirements contracts with major Samoan accounts, it has been impossible for a competitor to enter the market. * * * The following companies considered the American Samoan market but for the reasons described above, determined that entry would not be feasible.

* * * * * * * *

(4) *Shell*

* * * * * * * *

Between October 1964 and mid-1965, Shell studied the possibility of supplying diesel fuel for the fishing fleets at American Samoa [GX 139, GX 207, GX 72], [footnote omitted] but decided not to enter the market at that time [GX 156-157].

* * * * * * * *

(6) *William R. McCook*

William McCook, an independent investor, became interested in American Samoa as a market for petroleum products in 1965. At that time he arranged for the financing of a petroleum storage facility and submitted to GAS a proposal to enter the market [TR 2064, 2065; GX 228]. However, McCook learned of SoCal's recent price reduction to the canners, the airlines and GAS and, being reluctant to enter into a price war with SoCal, abandoned the project.

> It appears to me like we were fiighting a losing battle because that was the first of what could have been several reductions in price. Obviously, I'm in no position to buck Standard Oil, and when Standard Oil reduced their price it did take a lot of sting out of it. [TR 2071].
>
> * * *
>
> . . . knowing they could cut the prices and live for many, many years beyond our death and not face the overall picture [TR 2074].

* * * * * * * *

ii. Standard Oil Company of California, Dated September 18, 1972

United States District Court for the
Northern District of California

(Title omitted in printing)

* * * * * * * *

William R. McCook (Govt. Br. 48). In referring to William McCook as an "independent investor," the Government neglects to mention that Mr. McCook was closely associated with Raymond Turnbull and that it was due to Mr. Turnbull's efforts that McCook became interested in the Samoan market. The Government states, relying on the deposition of McCook, that he learned of Standard's 1965 price reductions to the canners, the airlines and GAS and, being reluctant to enter into a price war with Standard, abandoned the project.

The facts are that the McCook proposal was made in August of 1965 (Exh. D-34Q), and it died for lack of interest or pursuit on the part of Governor Lee. He never even responded to the McCook proposal! Mr. Turnbull, who did most of the negotiating with Lee and the canners, wrote to Governor Lee in November 1965, to find out what decision Lee had made on McCook's proposal (Exh. D-34T). Turnbull's letter indicates that even with knowledge of Standard's 1965 price reductions, Turnbull and McCook still considered their proposal viable. Obviously McCook was confused in his deposition.*

Actually there is no evidence to support the Government's claim that the McCook proposal was even "abandoned." It was never withdrawn, but admittedly it was not pursued. The evidence suggests that Governor Lee, by 1965, did not consider acceptable any proposal in which Turnbull was involved because Lee was not sure enough of the integrity or dependability of the group which Turnbull represented (Exh. D-21MM (referring to a preliminary Turnbull proposal in April, 1965, which was the precursor of the final McCook-Turnbull-Summit Petroleum proposal made in August (see Exhs. D-34K, p. 3, D-34N, D-43D)); Tr. 328-330).

The McCook proposal itself may explain why there was no follow-up. It was predicated on the McCook group obtaining "long-term" contracts with GAS, Star-Kist, Van Camp and Pan Am, and prices were to "vary with the world petroleum market" (Exh. D-34Q). Quite obviously, the proposal, for which Governor Lee would be the "catalyst," contemplated replacing Standard in the Samoan market.

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*The confusion of McCook is apparent from reading his testimony (Tr. 2068-2071). He did not even know what Standard's prices were, and he appears to be giving his present opinion, looking back on the earlier events.

* * * * * * *

2. William R. McCook v. Standard Oil Company of California, et. al., United States District Court, Central District of California, Civil No. 74 1190 HP

a. MOTION FOR SUMMARY JUDGMENT

I. Memorandum of Points and Authorities in Support of Motion for Partial Summary Judgment, Served August 14, 1974

United States District Court for the
Central District of California

William R. McCook,
Plaintiff,
vs.
Standard Oil Company of California, et al.,
Defendants.

Civil No. 74 1190 HP

Plaintiff seeks in the instant action to recover treble damages and costs of suit, including reasonable attorneys' fees, for violations of Section 3 of the Sherman Act, 15 United States Code Section 3 * * * by, *inter alia,* defendant Standard.

* * * * * * *

Plaintiff submits that, pursuant to Section 5(a) of the Clayton Act, 15 United States Code Section 16(a), Judge Conti's Findings and Judgment in the prior action are prima facie evidence of each and every material allegation contained in Paragraphs 1, 3, 4, 8, 9, 10, 11 and 12 of the complaint and that this Court's jurisdiction herein, plaintiff's status as a potential entrant into the American Samoan petroleum products market, the identity of such market as the relevant geographic and product market, defendant Standard's violations of Section 3 in connection with its dominance of the foregoing market, and the fact of plaintiff's injury as a result of such violations are *all thereby presumptively established.*

In order to simplify this action and to focus upon the *only remaining issue* as to defendant Standard, to wit, the amount of plaintiff's damages, plaintiff now moves under **rule 56 of the Federal Rules of Civil Procedure for partial summary judgment** as to the liability only of defendant **Standard alone.**

* * * * * * * *

* * * [T]he Findings in the prior action specifically focused on the fact that plaintiff was one of eight named potential competitive suppliers foreclosed from the market by defendant Standard's illegal combination and conspiracy with others and its illegal requirements contracts. Under Section 5(a) of the Clayton Act, such finding is prima facie evidence of plaintiff's status as a fully prepared and determined potential entrant into the market who was directly injured by defendant Standard's illegal activities, all as alleged in Paragraphs 3 and 12 of the complaint herein.

* * * * * * * *

[P]laintiff was the object of direct focus in the Government's evidence and the specific designation of plaintiff in Judge Conti's Findings as a foreclosed potential competitive supplier is necessarily prima facie evidence of plaintiff's status as a person injured in his business or property by defendant Standard's illegal activities.

* * * * * * * *

ii. Reply Memorandum in Support of Motion for Partial Summary Judgment, Dated September 17, 1974

* * * * * * * *

Section 5(a) should not and cannot be read to preclude collateral estoppel effect and, since defendant Standard's opposition to the instant motion rests entirely upon a rehashing of the evidence in the prior action, summary judgment should be granted as requested.

* * * * * * * *

In the instant case, defendant Standard has presented this Court with no new evidence of any kind. Its entire opposition rests upon the purely legal argument that plaintiff's evidence, the findings in the prior action, is not supported by the evidence whereupon such "evidence" was created.

* * * * * * * *

It is inherently incredible and manifestly unjust that defendant Standard, having lost in the prior action and having had that loss affirmed on appeal, could now escape liability on the same evidence of the same facts before a different tribunal. Defendant Standard's opposition to the instant motion is by definition insufficient and summary judgment should be granted accordingly.

* * * * * * * *

iii. Supplemental Reply Memorandum in Support of Motion for Partial Summary Judgment, Dated October 18, 1974

* * * * * * * *

Try as it may, Standard cannot evade the plain fact that it is now presenting this Court with the same old evidence and arguments found insufficient by both Judge Conti and the United States Supreme Court.

* * * * * * * *

If Standard had any *new, previously unobtainable* evidence of sufficient weight to raise a genuine issue of material fact concerning plaintiff's liability case, then it certainly would be entitled to produce and argue that evidence. However, * * * Standard had done nothing more than drag out the same old evidence and issues. * * *

* * * * * * * *

Standard's blatant failure to produce before this Court any truly new, previously unobtainable evidence to rebut plaintiff's liability case also constitutes a failure to raise any genuine issue of material fact. The evidence presented in the government action has already been evaluated by Judge Conti and subsumed under his Findings and Judgment, which now constitute plaintiff's "evidence." Since Standard utterly fails to produce anything other than the evidence before Judge Conti, it is left with the sole argument that plaintiff's "evidence" is unsupported and in fact contradicted by the evidence upon which such "evidence" is based.

* * * * * * * *

b. TRANSCRIPTS OF PROCEEDINGS BEFORE THE HONORABLE HARRY PREGERSON

1. Hearing: March 15, 1976

United States District Court for the
Central District of California

(Title omitted in printing)

* * * * * * * *

[3]

The Clerk: * * * Civil No. 74-1190-HP, William R. McCook vs. Standard Oil Company of California, et al.

Your Honor, this matter is on the Court's calendar this morning for hearing a motion by the Department of Justice for protective order that defendant's notice of depositions of the United States Department of Justice and Bernard M. Hollander be vacated and the discovery not be had. That motion was filed on February 23, 1976.

* * * * * * * *

Mr. Desmond: For the Government and for Bernard M. Hollander, Anthony Desmond.

* * * * * * * *

[6]

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In brief summary our position is as follows:

The discovery sought is intended to harass, or will have the necessary and probable effect of harassing. It is, moreover, unreasonable, in that it seeks documents already obtained, or for a limited number of documents voluntarily supplied.

Secondly, no showing has been made by Standard, despite the large bulk of filings created by repeatedly copying and attaching documents already on file with the Court. No showing whatsoever has been made that documents exist which the Government possessed prior to the trial of the Government case, and which the Government did not produce to Standard. The facts regarding Mr. Turnbull's production of documents in the Government case are now clear, thanks to records maintained by the Department of Justice.

Third. In any event, the Government has produced

[7]

all of the nonprivileged documentary information it has regarding document production by Turnbull and his counsel and associates, and Mr. Hollander has supplied affidavits which exhaust his present, refreshed recollection of those seven-year old events.

No further discovery should be permitted against the Department and Mr. Hollander.

* * * * * * * *

[11]

* * * * * * * *

The Court: All right. Does anyone else wish to be heard on this side?

Mr. Kane: I do, your Honor.

[12]

Kevin Kane of Kindel & Anderson for the plaintiff.

* * * * * * * *

First and foremost, it seems that Standard's counsel have taken pains to suggest through deposition excerpts taken out of context that the plaintiff somehow believes that the Justice Department may have withheld or suppressed documents in the Government case.

Your Honor, I am here to tell this Court that is absolutely false. We have in no way suggested this and we have no reason to believe this. We believe Mr. Hollander to be an honorable, dedicated and highly competent public servant who acted in nothing but the most professional manner in the Government case.

We also contend and wish this Court to be aware—

The Court: Mr. Klitgaard, are you contending that Mr. Hollander intentionally suppressed relevant documents?

Mr. Klitgaard [counsel for Standard Oil Company of California]: We are not contending that, your Honor. We are simply trying to find out what Mr. Turnbull—

[13]

The Court: All right, you have answered my question.

Mr. Kane: I am glad we got that out of the way, your Honor.

Secondly, I think it is germane for this Court to take a close look at the type of documents we are talking about. After all, the only justification for deposing the Justice Department and Mr. Hollander is that supposedly relevant evidence that would have been material to Standard's defense in the Government case was somehow not made available to them.

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[17]

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All of this evidence, your Honor, is simply cumulative to what they already had. Neither this document nor any

other document produced in the present action adds anything new to what was produced and argued in the Government case.

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[21]

And, finally, I should say, your Honor, that this Court really, in ruling on the propriety of the proposed discovery, should look at the end reason for wanting to do this.

Standard makes no bones about what they intend to do. They intend to finish all of this discovery, and then they are going to make a motion before this Court to have the Government case, and the judgment in that case and findings, excluded as prima facie evidence, on a number of different grounds relating to the fact that documents now produced were not produced for them in the Government case.

Your Honor, if Standard has any dispute with the propriety of the judgment in the Government case, its remedy is clear: Go back to Judge Conti. Don't come to this Court.

* * * * * * *

If Standard wants to make a collateral attack upon the Government judgment, Rule 60 clearly gives it the vehicle

[22]

to do so. * * *

* * * * * * *

The Court: Mr. Klitgaard, why don't you bring these matters before Judge Conti?

In effect, you are saying that the Government with-

[23]

held evidence in that case which would have helped Standard, and this was done knowingly.

It would just seem to me that perhaps he ought to be the judge to rule on it. He sat on the case. If he was deceived, I am certain he would be concerned.

Mr. Klitgaard: There are two answers to that, your Honor.

First of all, we are concerned in this case with the use of the judgment in the prior case as prima facie evidence, and we want to defend against the use of that judgment in this case.

The Court: Why not attack it up in San Francisco before Judge Conti? Maybe he will set the whole judgment aside.

Mr. Klitgaard: We don't think we have to reach that point before we attack the judgment or the use of that judgment as evidence in this case.

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The Court: If there was fraud, don't you think it is important to protect the integrity of the judicial process and that the matter ought to be presented before the judge who was the trier of fact?

Mr. Klitgaard: We would think that's an important consideration, your Honor, and it is not impossible, it is not out of the realm of possibility that Standard in that case, when the time comes, would present that—

[26]

The Court: I would think Judge Conti, having heard the evidence and done considerable work in this case would be the man that would certainly know whether a particular document or bit of evidence, or evidence in combination with other evidence, might have persuaded him to rule for your client.

Mr. Klitgaard: • • • The problem is, of course, we are faced with two cases, one in which the judgment has already been entered and affirmed, and one in which the judgment is trying to be used in evidence by a person who didn't produce

all the documents, or a group of people. It is in the second case that we want to proceed and prepare our defense on that ground to the use of that evidence, such as it may be, and bring before the Court all the facts. We think there is an interest in that judicial process and the integrity of the system to doing it here, as well as perhaps before Judge Conti.

• • • • • • • •

The Court: He heard all the evidence, and I am sure that in coming to his decision he decided what was important and what wasn't important, what persuaded him and what didn't

[27]

persuade him, and he would know whether these documents in question, I would think, would have made the difference.

[37]

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just seems to me that what you are saying is attacking the integrity of the process, the integrity of the Justice Department, the integrity of Judge Conti's ruling. And if I were Judge Conti I would certainly want to know about it.

• • • • • • • •

Mr. Klitgaard: Before Judge Conti, your Honor, the way that's handled is that a motion would have to be made in the United States Supreme Court, because that was the last court that handled the case. • • •

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We might add that ever since these new documents turned up we have been proceeding as rapidly as we can to bring this matter out in this case to develop what the facts were;

and when we took Mr. McCook's deposition under Rule 30 and served him with a request for production, we got some documents from him, new documents. When we took Lynn's deposition, and everyone said Lynn didn't have any further documents, we got more documents from Lynn that were relevant. When we took Turnbull's deposition we got still more documents from Turnbull that were relevant. Plus Turnbull's story about how he turned over documents to the Department of Justice. It is Mr. Turnbull that has pointed the finger at the Department of Justice.

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And we took—served a notice upon the Government in the present case we got still more documents.

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For all those reasons, your Honor, * * * we point out to the Court that we think we have

[41]

made a showing here that we are entitled to these. We think there are conflicts. We don't think an affidavit is the way to resolve the problem. We want to test the recollection, to ask about these things, and we think the Government, as well as Standard, should be interested in developing for us what the facts were here and now, so that we can proceed in this case. And then we can go ahead in the Government case if that turns out to be necessary.

The Court: Does anyone else wish to be heard in opposition to the Government's motion?

Mr. Desmond.

Mr. Desmond: A brief word, your Honor.

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[43]

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The Court: Let me ask you: Do you have any aversion to Judge Conti looking into this matter?

Mr. Desmond: I certainly do not, your Honor.

* * * * * * *

[47]

The Court: * * *

My ruling is that the motion of the Department of Justice pursuant to Federal Rule of Civil Procedure 26(c)(1) for a protective order is granted.

I think, properly, this attack that is being made on the judgment of Judge Conti ought to be presented to him. I certainly think that he not only has an interest in the matter, because he did decide the case, but that some serious questions have been raised concerning the integrity of that case, and those matters ought to be laid before him under Rule 60.

* * * * * * *

I am not suggesting that you go to Judge Conti, or ordering that. I am suggesting that you do it, but I certainly don't think that it is within my realm to order you to do it.

* * * * * * *

ii. Hearing: April 19, 1976

United States District Court for the
Central District of California

(Title omitted in printing)

[3]

The Clerk: * * * 74-1190-HP, William R. McCook vs. Standard Oil Company of California, et al.

Your Honor, this matter is on the Court's calendar this morning for hearing defendant Standard Oil's motion for reconsideration of protective order granted by this Court on March 15, 1976, or for certification of that protective order for an interlocutory appeal. That motion was filed on March 19, 1976.

* * * * * * * *

[4]

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Mr. Klitgaard: Your Honor, I wonder if I might approach the bench and hand you a letter we received from Judge Conti on Friday.

The Court: All right.

I don't have to read it to know what it says.

Mr. Klitgaard:

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[5]

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After the Court's ruling last month we took the depositions of the two lawyers in San Diego who had been employed by Messrs. Lynn, McCook and Turnbull, to investigate the claim against Standard during the pendency of the Government's suit, and we found in their files copies of new documents, copies of documents that were new that we obtained for the first time in this case earlier from Mr. McCook and Mr. Lynn and Mr. Turnbull. And, in addition, wholly separate new documents that we had never seen before from anybody in the case up until this time.

These were documents that weren't produced in the Government case, but which should have been.

What we seek here is the right to examine the Government to find out if there are any further documents in its possession. That's the first thing.

The second thing we seek is the right to develop evidence concerning matters to be offered at trial. We seek this for two reasons. First to develop evidence that goes to the

weight to be given to the judgment in the prior case. Second, to develop evidence to show that Mr. Turnbull

[6]

and Mr. McCook have lied—have lied in this case and have lied in the prior case concerning matters that are material, and to bring that evidence concerning their credibility before the jury.

It is our position in this case that there was a suppression by McCook, Turnbull and Lynn in the prior case, and we think this is a suppression with which the Court is or should be concerned.

The matter is complicated to some degree by a suppression of the Government both post-trial, as shown by its own records, by the documents produced in Mr. Hollander's affidavit, and pretrial if the testimony of Mr. Turnbull is to be believed.

* * * * * * * *

The Government says that there is no inconsistency between Mr. Hollander's affidavit and the Turnbull deposition.

We think that the impact of the Turnbull testimony has somehow been lost on the Department of Justice. It is

[7]

lost because the Department of Justice treats this as a case where Mr. Turnbull couldn't remember.

In fact, it is true that on some things Mr. Turnbull could not remember, but on other things he could remember. He remembered giving documents to the Department of Justice, and he remembered to some extent his communications with the Department of Justice.

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[17]

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The Court: Mr. Desmond, has the Government produced all the documents?

Mr. Desmond: Yes, we have, your Honor, except for a small number of claimed privilege.

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[18]

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The Court: Do you concur with Mr. Desmond's statement, Mr. Hollander?

Mr. Hollander: Yes, your Honor, I do.

The Court: These are two Government attorneys that are making representations to a court, Mr. Klitgaard.

Mr. Klitgaard: The same representations, your Honor, were made in the affidavit of Mr. Hollander filed with this Court the first time in this motion, and • • • in the supplemental affidavit this statement is made:

[19]

> Although affiant had occasion to examine thousands of documents in the course of the Government case and has not gone back and reviewed each document, affiant has reviewed the documents provided by Standard as we requested.

In other words, in the Government's affidavit the Government itself states that it hasn't gone back and reviewed the documents in its files to determine whether there are any additional documents.

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[28]

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The Court: Mr. Kane, let me ask you this: Will you concede that none of the documents that were delivered by

you to Mr. Klitgaard on or about November 18, 1975, were ever produced by your clients for the Government?

Mr. Kane: I cannot make that statement, your Honor, because certain of these quote-unquote new documents are not new at all, they are simply different versions of a document that was contained in TU-1 through 100. The documents really break down—

The Court: Different versions in what sense?

Mr. Klitgaard: They have notes on them, comments.

Mr. Kane: Either that, or a draft of a letter that

[29]

was later typed; either that or the same document with a phone number written on the front; either that, or rather than an original letter a tissue copy of a letter that would be exactly identical—there are all kinds of [illegible]iations here.

Admittedly there are some documents that were absolutely in no form produced in the Government case. • • •

• • • • • • • •

Mr. Klitgaard:

[39]

• • • • • • • •

Without getting into the merits, which really we have to brief and argue fully, but without getting into the merits I wonder if the Court is saying that Congress in passing Section 5(a) of the Clayton Act said that no matter what a potential plaintiff does in a Government suit, he can lie, he can perjure himself, he can fail to produce documents—

The Court: Of course not. But I think your avenue is before Judge Conti, and by filing a proper motion under Rule 60.

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Mr. Klitgaard: The question we come back to is whether the Government has documents in its files or has seen documents that we may now have obtained copies of, but which the Government had seen earlier in the prior case. Whether Mr. Turnbull is telling the truth. And I can't believe, your Honor, that Mr. Kane or anyone is prepared to argue and decide right now the question of how that judgment in the prior case can be used until we have had a chance to make our record and brief it and argue it. * * *

[51]

* * * * * * *

The Court: Mr. Kane * * * points out, and I think properly so, that your path is through Rule 60.

Mr. Klitgaard: We think the path lies in both places, your Honor. We think the path lies in this Court where the judgment is going to be in evidence, offered as evidence, and we think the path lies in the Supreme Court where the other fraud was committed.

The Court: * * * All right. Both of the present motions before the Court are denied.

* * * * * * *

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c. LETTER DATED NOVEMBER 18, 1975 BY COUNSEL FOR McCOOK TO BERNARD M. HOLLANDER, ESQ.

KINDEL & ANDERSON
LAWYERS
[Remainder of Letterhead Omitted]

November 18, 1975

Refer to File No. 06491-5 000 535 033

PERSONAL

Bernard M. Hollander, Esq.
Room 3222
Antitrust Division
Department of Justice
Washington, D. C. 20530

Re: McCook v. Standard Oil Company of California, et al.

Dear Mr. Hollander:

I am enclosing copies of correspondence to and from governmental agencies which Mr. Kane requested I forward to you.

Very truly yours,
Theresa Struwe
(Mrs.) Theresa Struwe
Secretary to Kevin P. Kane

tps
Enclosures

d. LETTER DATED APRIL 29, 1976, BY COUNSEL FOR GOVERNMENT TO COUNSEL FOR STANDARD.

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number
TEK:BMH:SMG
60-57-193

April 29, 1976

Thomas J. Klitgaard, Esquire
Pillsbury, Madison & Sutro
Standard Oil Building
225 Bush Street
San Francisco, California 94104

Re: McCook v. Standard Oil Company of California, et al., Civil No. 74-1190-HP (C.D. Cal.)

Dear Mr. Klitgaard:

* * * * * * * * *

As to your query after the hearing [of April 19, 1976], the numbers assigned to the McCook proposal of August 13, 1965, which was transmitted through the mail to the Government by Mr. Winton on December 11, 1969, were TU 79-80. Since Mr. Winton provided no transmittal letter, we are unable at this time, six and one-half years after the event, to represent with certainty that nothing else was received from Mr. Winton. However, had he submitted any additional material, it would undoubtedly have been marked with TU identification and provided to Standard on April 13, 1970.

Sincerely yours,
THOMAS E. KAUPER
Assistant Attorney General
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e. LETTER DATED JUNE 4, 1976, BY COUNSEL FOR GOVERNMENT TO COUNSEL FOR STANDARD, WITH ENCLOSED INDEX OF DOCUMENTS WITHHELD BY GOVERNMENT ON CLAIM OF PRIVILEGE.

UNITED STATES DEPARTMENT OF JUSTICE
ANTITRUST DIVISION

[Remainder of letterhead omitted]

June 4, 1976

Thomas J. Klitgaard, Esq.
Pillsbury, Madison & Sutro
225 Bush Street
San Francisco, California 94104

Re: McCook v. Standard Oil Company of California, et al., Civil No. 74-1190-HP (C.D. Calif.)

Dear Mr. Klitgaard:

Pursuant to Judge Pregerson's letter of May 24, 1976 regarding the above case there is enclosed herewith a five page document entitled Index Of Documents Withheld By Government On Claim Of Privilege.

Sincerely yours,
THOMAS E. KAUPER
Assistant Attorney General
Antitrust Division
Anthony E. Desmond
Anthony E. Desmond
Chief, San Francisco Office

Enclosure
cc: Honorable Harry Pregerson
Kevin P. Kane, Esq.
Angelo J. Palmieri, Esq.

INDEX OF DOCUMENTS WITHHELD BY GOVERNMENT ON CLAIM OF PRIVILEGE

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	Date of Document	Type of Document	Name Signed to Document as Person Who Prepared Document	Addressee	General Subject Matter
			* * * * * * * *		
3.	11/17/69	Memorandum	Bernard M. Hollander	Files	Notes of interviews by Government counsel with Raymond Turnbull. Re: his and SoCal's Samoan activities.
			* * * * * * * *		
6.	4/13/70	Memorandum	Bernard M. Hollander	Files	Memorandum noting third parties' consent to have Government produce their documents for SoCal's use pursuant to SoCal's Motion to produce.
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			* * * * * * * *		
15.	10/22/69	Handwritten Notes	Bernard M. Hollander	None	Handwritten notes of Government counsel's telephone interview with Raymond Turnbull regarding his Samoan petroleum activities.
16.	10/ 6/69	Handwritten Notes	Bernard M. Hollander	None	Handwritten notes of Government counsel's telephone interview with Turnbull. Re: Turnbull's and SoCal's Samoan activities.

E. FINDINGS OF FACT AND CONCLUSIONS OF LAW, ENTERED OCTOBER 26, 1972.

United States District Court for the
Northern District of California
(Title omitted in printing)

FINDINGS OF FACT

I. 1. *Jurisdiction and Venue*

This is an action by the United States under Section 4 of the Sherman Act (15 U.S.C. § 4) to have the court adjudge that Standard Oil Company of California (hereinafter "SoCal") has engaged, since at least 1956, in a continuing combination and conspiracy to unreasonably restrain and to monopolize the distribution and sale of petroleum products in American Samoa, and adjudge that SoCal has entered into and utilized long term requirements contracts with the primary non-governmental consumers of the major petroleum products used in Samoa (diesel fuel and aviation fuel) all in unreasonable restraint of trade, in violation of Section 3 of the Sherman Act (15 U.S.C. § 3), and to have the court enjoin the maintenance, continuation or resumption of said violations and grant mandatory relief.

2. Defendant SoCal is a corporation organized and existing under the laws of the State of Delaware with its principal offices in San Francisco, California. It transacts business and is found within the Northern District of California. [GX 1(2), (3); GX 2(9)].

3. SoCal is engaged in trade and commerce in the Territory of American Samoa and between that Territory and states or foreign nations. [GX 1(3-5)].

4. The amount of trade and commerce involved in the sale and distribution of petroleum products in American Samoa is substantial. [GX 1(6); Amended GX 23; Amended GX 24].

II. *Description of the Defendant*

5. SoCal engages in exploration, production and transportation operations with respect to crude oil, and in refining, manufacturing, marketing, shipping and research operations with respect to refined petroleum products in the United States and in certain foreign countries. [GX 1(3)].

6. SoCal has, since July 1956, been virtually the only supplier and distributor of petroleum products in the Territory of American Samoa [GX 2], where it sells diesel fuel, aviation gasoline and jet fuel, gasoline and oil products for automobiles and other petroleum products, all of which are transported to American Samoa by tanker from SoCal's refinery and plant in Hawaii. [GX 1(5); GX 14].

7. The bulk of SoCal's sales in American Samoa since 1956 has been diesel fuel sold through the two canners (Van Camp Sea Food Company and Star-Kist Foods, Inc.) for use by their foreign tuna fishing fleets and to the Government of American Samoa ("GAS") for the generation of electricity for the Territory, and aviation fuels sold to Pan American World Airways and to the United States Government for its military planes. [D-41,A, D-41 B, D-41 C, D-41 D].

III. *SoCal's Course of Conduct in American Samoa.*

A. *The Combination or Conspiracy to Unreasonably Restrain and Monopolize Trade and Commerce.*

1. *SoCal's Relationship with GAS*

8. From its first consideration of entry into the Samoan market, SoCal intended to establish and maintain a monopoly position there. [D 3 G (S 605T)].

9. SoCal's petroleum products are stored in American Samoa in a tank farm owned by the Government of American Samoa, and in storage facilities at Tafuna Airport erected on GAS land, all of which storage facilities have been used, occupied and controlled by SoCal under a Permit and Agreement dated July 16, 1956, the term of which ran for 10 years from July 1, 1956, renewable at SoCal's option for four additional terms of 10 years each. [GX 1(5); GX 9(2)].

10. In the negotiations between SoCal and GAS which preceded the Department of Interior's approval of the Permit and Agreement of July, 1956, then-Governor Lowe and then-Attorney General Coleman, at SoCal's behest, failed to follow "fitting and proper" procedures: [TR 937]

10(a) Normal procedures for disposal of surplus Government property were not followed. [TR 747].

10(b) Despite the fact that Standard-Vacuum (hereinafter "Stanvac",) which had previously supplied petroleum to Samoa, had asked to be and had been assured that it would be considered as a lessee of the tank farm, SoCal was permitted to formulate the conditions under which Stanvac would be permitted to make an offer, and was permitted to begin direct negotiations with the Attorney General of Samoa prior to the expiration of the time within which Stanvac was to respond. [GX 254, pp. 1-2; TR 752].

10(c) Stanvac's cabled offer of a capital investment was higher than SoCal's initial offer. Lowe and Coleman reported the terms of Stanvac's offer to SoCal and permitted it to alter the terms of its proposal "to give the Governor evidence to show that [its] offer was higher than Stanvac's offer". [GX 254, p. 3; TR 755].

10(d) Although its cabled offer appeared preferable to SoCal's in several other respects, Stanvac was not granted the one month extension which it requested to receive an engineer's report then enroute and to finalize its offer. [D-3 Q; TR 753-759].

10(e) The agreement negotiated with SoCal was for a maximum term of 50 years, while Stanvac had suggested a maximum term of only 20 years. [GX 254, p. 2].

10(f) The agreement negotiated with SoCal contained a maximum annual rental of $17,500, while Stanvac had suggested a rental based on volume with no maximum. [GX 254, p. 2].

10(g) Governor Lowe informed the Interior Department that SoCal's offer was better than Stanvac's, without revealing that SoCal had been given special treatment by being allowed to increase its initial bid. [D-3 Q].

11. Had Adolf Edward, Jr., Interior's Associate Solicitor for Territories, who was responsible for reviewing the proposed agreement between SoCal and GAS, been aware of the irregularities in the negotiation procedures used in Samoa, he would not have approved of them. [TR 935-937, TR 941-942].

12. The Permit and Agreement of July, 1956, between GAS and SoCal was cancelled by Governor H. Rex Lee on the advice of Interior officials including the Assistant Solicitor on August 11, 1961, "to the extent that it is provided

in Article I that such permit will be construed as a lease should the title to the property involved pass from the United States to the Government of American Samoa." [TR 181-184; GX 241, GX 241 A, GX 241 B, GX 242].

13. Said cancellation was never rescinded nor was any lease with SoCal ever signed by Governor Lee. [TR 188].

14. Because said cancellation was never rescinded, nor any lease with SoCal subsequently signed, the Permit and Agreement of July, 1956, between GAS and SoCal did not ripen into a lease agreeemnt as would have occurred had said cancellation not been made. [GX 257, GX 243, GX 244, GX 245, GX 245 A & B].

15. No formulation of prices to be charged in American Samoa by SoCal is contained in the Permit and Agreement of July, 1956. The only such formulation is contained in a unilateral letter from SoCal to GAS which is not incorporated or referred to in said Permit and Agreement, and which bases Samoan prices upon the level of domestic posted prices in Richmond, California, over 4,500 miles away. [D-3-0].

16. The only provision in the Permit and Agreement of July, 1956, providing for escalation of the maximum annual rental of $17,500 for use of GAS' storage facilities, ties any such escalation to the price of crude oil in Richmond, California, and bears no relationship to volume usage of the facilities which has increased markedly since 1956, while crude oil prices in Richmond, California, remained relatively stable. [GX 9; TR 925].

17. Each year since the fiscal year July 1, 1962-June 30, 1963, SoCal's usage of GAS' storage facilities has exceeded the volume which requires a maximum rental payment, but because of the maximum rental provision in the Permit and Agreement of July, 1956, only $17,500 has been paid to GAS by SoCal. [GX 10a].

18. Normal rental for a comparable bulk storage plant would be closer to $100,000 per year than $17,500 per year. [TR 2603, TR 2605-6].

19. In 1961, the Permit and Agreement of July, 1956, was used by SoCal in furtherance of its aforesaid continuing combination and conspiracy, to dissuade Shell Oil Company of New Zealand from constructing or leasing storage and fueling facilities at Tafuna Airport in American Samoa, with the effect of permitting SoCal to maintain its monopoly in American Samoa: [TX 253, GX 253 A-D]; TR 783-798, TR 963-966].

19(a) In about February, 1961, SoCal refused to work out an arrangement with Shell to allow Shell to supply TEAL (now Air New Zealand) with aviation fuel at Tafuna Airport. [GX 253 AA].

19(b) When Shell sought to construct its own storage and pumping facility at Tafuna Airport, then-Governor Coleman took the position, after consultation with SoCal, that SoCal had the "exclusive right to install fueling equipment and to service all aircraft using the field." [GX 253].

19(c) Shell never entered the aviation fuel market in Samoa except by arrangement with SoCal. [TR 791-792; GX 37, GX 38].

19(d) Because of the high price of aviation fuel supplied to Air New Zealand at Tafuna Airport, Air New Zealand no longer uplifts aviation fuel at that point, but instead fuels its planes at Nadi, Fiji. [GX 12, GX 10; TR 514-515, 519].

2. *SoCal's Relationship with the Canners*

20. Contingent upon the execution of the Permit and Agreement of July, 1956, between GAS and SoCal, Van Camp Sea Food Company ("Van Camp"), a tuna canner and processor in Samoa which itself used only small quantities of diesel fuel, entered into a 10 year requirements contract with SoCal dated June 21, 1956, which assured that no less than 60% and as much as all of Van Camp's monthly operational requirements of petroleum products in American Samoa, including as a practical matter the requirements of the foreign fishing fleets serving Van Camp there, would be provided by SoCal. [GX 26 IV, D 14 A, GX 28; TR 1251-1274].

21. The 1956 requirements contract between Van Camp and SoCal provided no advantage to Van Camp but had the effect of foreclosing competitors from Van Camp's business.

22. Star-Kist Foods Inc. ("Star-Kist"), then a new tuna canner and processor in American Samoa which itself used only small quantities of diesel fuel, entered into a 10 year requirements contract with SoCal, effective September 1, 1963, which assured that no less than 60% and as much as all of Star-Kist's monthly operational requirements of petroleum products in American Samoa, including as a practical matter the requirements of the foreign fishing fleets serving Star-Kist there, would be provided by SoCal. [GX 30(IV)(c), GX 33, GX 34; TR 3036-3039].

23. The 1963 requirements contract between Star-Kist and SoCal provided no advantage to Star-Kist but had the effect of foreclosing competitors from Star-Kist's business.

24. Van Camp since 1956, and Star-Kist since 1964 have informed SoCal in detail of competitive activity in or relating to Samoa, and have thus aided SoCal in maintaining its monopoly position.

24(a) In October, 1956, when Moore of Van Camp learned that the Japanese fishing fleets were threatening, because of SoCal's high price for lubricating oil, to import such oil from Japan, he notified SoCal, which reduced the fleets' price by almost one-third and thus prevented the supply of such oil from another source. [GX 41, GX 42, GX 43].

24(b) In November 1960, after SoCal had four times increased its diesel fuel prices (by 0.5¢ per gallon in November, 1956 and January, 1957, by 0.3¢ per gallon in June, 1957 and February, 1959), and Gillis of Van Camp had notified SoCal that because of SoCal's high diesel fuel price, a Japanese fleet was threatening to bring such fuel from Japan, SoCal degraded its diesel fuel and reduced the fleet price by 0.5¢ per gallon, and thus prevented the supply of such fuel from another source. [D 41 N, D 41 NA, D 41 M; GX 45, GX 46].

24(c) During 1964, Star-Kist, which had by now begun operations in American Samoa, joined Van Camp in reporting the activities of potential competitors in Samoa to SoCal. [GX 143 B, GX 63, GX 62].

24(d) In mid-1964, Star-Kist discouraged Mobil's attempt "to cut in on some of Standard Oil's monopoly in the South Pacific." [GX 181].

24(e) In July 1964, Moore of Van Camp, in reporting a renewed threat by the Japanese fishing fleet to import diesel fuel from Japan because of SoCal's high prices, told SoCal that Van Camp was not trying to beat down the market price, but was interested in SoCal's retaining the business it enjoyed in American Samoa. [GX 57].

25. In October, 1964, Governor Lee, who had no intention of protecting SoCal's monopoly position in American Samoa, expressed to SoCal his concern about its Samoan prices and told SoCal that other oil companies were exploring the Samoan market without revealing their names or any details. [GX 236, GX 64].

26. In February, 1965, recognizing that there was a serious threat to its monopoly position, SoCal effected a general price reduction in petroleum products in Samoa.

The July 1 1965 Price Reduction for Samoan Diesel Fuel Special (SDFS)

27. In about December, 1964, the canners, because of continuing pressure from the fishing fleets over SoCal's monopoly prices, ostensibly considered joining forces with GAS to establish a second fuel storage facility in Samoa. [GX 216, GX 217, GX 220, GX 222, GX 224].

28. The matter was discussed at meetings between Governor Lee and representatives of the canners in January, March and June 1965. [D 21 K, GX 240; TR 239].

29. Governor Lee suggested that the canners finance the facility and have the Samoan Development Corporation, which had been organized to promote economic development in Samoa, manage the facility and sell fuel products. Bids would be invited on a world-wide basis for the supply of petroleum products for each three year period. Any company, including SoCal, would then have had an equal chance to bid. [TR 234-235 A; TR 1299].

30. There was no understanding between the parties involved that the plan for a second fuel facility would be leaked to SoCal before it was finalized, and Governor Lee understood that until the papers had been signed, the plan would be held in strictest confidence. [GX 240; TR 241; TR 1806, lines 22-24; TR 1866, lines 16-20; TR 2054, lines 7-16; TR 3045, lines 14-25].

31. On June 9, 1965, representatives of Van Camp and Star-Kist met with Governor Lee in Los Angeles, and led him to believe that they were going to go ahead on the second facility. [TR 240].

32. On June 11, 1965, two days after the Los Angeles meeting and only one day after the proposed agreement [GX 71] was distributed to the three participants, Gillis of Van Camp advised Evans of SoCal that there were plans for other fuel facilities [GX 68], that Van Camp had been solicited by other suppliers at a more attractive price than SoCal's for diesel fuel [GX 66], and that it would take a 2¢ per gallon cut in the price of SDFS to "put out the fire" and "hold Van Camp's business." [GX 67, GX 68].

33. When SoCal on July 12, 1965, met Gillis' condition and agreed to drop the price of Samoan Diesel Fuel Special ("SDFS") by 2¢ per gallon effective July 1, 1965, Van Camp, which had given notice on May 25, 1965, of its intention to terminate its existing ten year requirements contract with SoCal, agreed in principle to a new five year requirements contract with SoCal. [GX 67, GX 74, GX 79 A, GX 39, p. 2].

34. SoCal's 2¢ price reduction for SDFS was made as an inducement for Van Camp's contract renewal and with an awareness by SoCal that this would destroy the plan for a new storage facility. [GX 39, p. 2; GX 267, pp. 74-75; TR 445-446; TR 1295-1296].

35. The price reduction by SoCal was made because SoCal had learned from Van Camp that the canners and GAS might otherwise secure a competitive supply. SoCal had also learned from Van Camp that Mobil and Shell were considering entering the market and SoCal made the re-

duction to prevent entry by them or any other supplier. [TR 1295-1296; GX 263, pp. 84-85; GX 267, pp. 72-75; GX 66, GX 70].

36. SoCal's price reduction on SDFS from 14.95¢ per gallon to 13.95¢ per gallon, effective February 1, 1965, plus its reduction from 13.95¢ per gallon to 11.95¢, effective July 1, 1965, constituted a 20% reduction in the price of SDFS during a 6-month period. [D-41 M].

3. *SoCal's Additional Acts in Furtherance of the Conspiracy*

37. As early as 1963, SoCal attempted to enter into a five year contract with GAS for its power plant requirements. [GX 48; TR 217-218.]

38. In July 1965, when SoCal granted the canners the 2¢ price reduction in the price of SDFS, it withheld that reduction from GAS in an unsuccessful attempt to force GAS into a five year requirements contract. [GX 78; TR 249-250].

39. In July 1965, SoCal also offered to construct new storage tanks and fueling facilities on the industrial side of Pago Pago Bay without, however, relinquishing control over the existing facilities, if GAS would agree to enter into a ten year requirements contract effective when the new facilities became operational. [GX 78; TR 249-250; TR 259].

40. Since GAS was adamant in its refusal to enter into a requirements contract with SoCal and continued to seek a second supplier, SoCal, in October 1965, finally granted GAS the 2¢ reduction "with the hope of stopping any further negotiations with other companies". [GX 39].

41. Between 1963 and 1966, SoCal opposed the installation, at GAS expense, of duplicate fueling facilities under the fuel pads at Tafuna Airport, which installation assured potential competitors access to the airport. [TR 256; TR 1741-1744; GX 86-89].

42. Between 1966 and 1968, SoCal made several efforts to obtain additional fuel storage space at Tafuna Airport, even though it had no immediate need for it. [TR 257; GX 91-96].

43. In 1966, SoCal sent a representative to Tokyo as part of "our efforts to secure contracts with Japan, Korea and Chinese fishing fleets in Samoan waters serving Van Camp and Star-Kist". [GX 99].

44. SoCal decided that requirements contracts directly with the foreign fishing fleets were unnecessary because "Standard has exclusive contract with Van Camp/Star-Kist therefore it will not change situation even users signed with Standard exclusively". [GX 103].

45. In addition to its entry into requirements contracts with the canners, SoCal entered into similar contracts with Pan American World Airways ("Pan Am"), the major user of aircraft fuel at Tafuna Airport. [TR 1225-1229].

B. *SoCal's Illegal Requirements Contracts*

1. *Requirements Contracts with the Canners.*

46. The 1956 SoCal-Van Camp contract, which by its express terms required Van Camp to purchase at least 60% of its monthly requirements of petroleum products from SoCal, called for SoCal to deliver the petroleum products to Van Camp's premises and "to vessels at the oil docks in Pago Pago." [GX 26(IV)].

47. Star-Kist and SoCal signed a similar ten year requirements contract effective September 1, 1963. [GX 30].

48. Effective July 1, 1965, SoCal entered into a new five year requirements contract with Van Camp similar to their 1956 agreement, but which sets forth a specific price of

11.95¢ per gallon for SDFS, the marine diesel fuel used by the fishing fleets but not by Van Camp, and the only product price specifically set forth in this contract. [GX 26 (July 1, 1965, V), TR 1264-1266].

49. Effective July 1, 1965, SoCal amended Star-Kist's requirements contract by reducing the price of SDFS to Star-Kist's fishing vessels to 11.95¢ per gallon. [GX 32].

50. The canners receive tuna from Korean, Nationalist Chinese and Japanese fishing fleets which require that an adequate supply of diesel fuel be available to them at Pago Pago. The canners purchase SDFS from SoCal which pipes it directly from the storage facilities to the fishing boats. The canners sell the fuel to the fleets on credit. [GX 18, TR 508, TR 1252].

51. As a result of the relationship between the fleets and the canners and the requirements contracts between the canners and SoCal, the fleets have since the signing of the contracts, purchased virtually 100% of their requirements from SoCal. [GX 16, GX 17].

52. The canneries themselves use very small quantities of fuel oil. [TR 1253; GX 18].

53. The July 1965 price reduction by SoCal in the price of SDFS to the canners was made "in exchange for their renewing our products contract." [GX 39, p. 2; TR 1267-1270].

54. SoCal believed that by reducing the price of SDFS in July 1965, it would keep SoCal in business with the fishing fleets and dissuade Mobil, Shell or any other supplier from entering the market. [TR 1267-1270].

55. SoCal considered that the requirements contracts were for the requirements of the fleet, and that they gave SoCal "a valid business hold" on the fleets' requirements. [D 14 A; TR 1273-1274].

56. SoCal and the canners amended the requirements contracts to permit the fleets to be fueled at Tahiti, where the canners had no canneries. [TR 1257-1258; GX 28, GX 34, GX 265, GX 266].

57. Because of the requirements contracts, competitors of SoCal were dissuaded from entering the market. [GX 151, GX 177, GX 185].

2. *Requirements Contract with Pan American.*

58. From the time when American Samoa was added as a supply point on the aviation fuel contract between SoCal and Pan Am until the present, Pan Am has been obligated to take some and as much as all of its requirements of aviation fuel at Tafuna Airport from SoCal. [TR 1225-1229].

59. Effective January 1, 1963, SoCal entered into a contract whereby Pan Am for four years was obligated to take all of its requirements of aviation engine fuel at Tafuna from SoCal. [TR 1225].

60. Although the wording of the requirements contract between SoCal and Pan Am was modified in December 1966, Pan Am continued to take all its requirements at Tafuna from SoCal. [TR 1228].

61. Effective January 1, 1969, the contract was amended to obligate Pan Am to take no less than two-thirds, and as much as all of its requirements at Tafuna from SoCal. [TR 1227].

C. *Effects of the Illegal Combination and Conspiracy and the Illegal Requirements Contracts.*

62. SoCal has been able to maintain extremely high prices for petroleum products in American Samoa.

62(a) Between 1956 and 1970, SoCal supplied petroleum products in Samoa at domestic prices instead of providing petroleum products at cheaper world market prices. [TR 1288-1290].

62(b) Because of high Samoan diesel fuel prices and because about 65% of the cost to GAS of producing electricity is accounted for by the cost of diesel fuel, Samoan electric costs have been high. [TR 99, TR 215, GX 149, GX 150].

62(c) The cost of diesel fuel to the foreign fishing fleets serving the Samoan canners has been maintained at prices which were among the highest in the world. [GX 133, GX 117, GX 123].

62(d) The prices of aviation fuel to the commercial airlines serving American Samoa have been among the highest in the world. [TR 2421-2423].

62(e) Since 1956, the Department of Defense ("DOD") has paid higher prices for aviation gasoline and jet fuel procured at Samoa than at Fiji where there is competition on the part of four suppliers of petroleum products. [TR 3072-3073; TR 3060-3061; TR 1411].

63. Despite repeated efforts by several administrations, GAS has been unable to attract a source of supply to compete with SoCal. [TR 191, TR 219, TR 493, GX 154, GX 155, GX 157, GX 158, GX 236, GX 249 C, GX 250-252].

64. Since 1956, even though the Department of Defense ("DOD") has repeatedly solicited proposals for jet fuel and/or aviation gasoline from all major suppliers servicing the Pacific, only SoCal, because of its monopoly position in Samoa, could respond, and it has retained the DOD business during the entire period. [D 2 B; GX 161, TR 1232-1233; TR 3058-3060].

65. Commercial airlines have minimized their purchases of aviation fuel at American Samoa because of SoCal's high prices there compared with the competitive markets of Tahiti and Fiji.

65(a) SoCal's aviation fuel prices have been maintained at higher levels at American Samoa than at Tahiti which is served by the same tanker and is further from Hawaii than American Samoa, but where SoCal encounters "competition for av-fuels" from three suppliers. [GX 14, TR 1060, Amended GX 130, pp. 8-9; GX 127-128].

65(b) SoCal's aviation fuel prices have been maintained at substantially higher levels at American Samoa than are charged at Fiji, where SoCal encounters competition. [Amended GX 130, pp. 6-9; GX 165 A].

65(c) Because Samoan aviation fuel prices are higher than those at Tahiti and Fiji, the amount of stored fuel a Pan Am pilot having any choice would be expected to take on at Tafuna Airport is minimized. [GX 162, GX 163; TR 2414-2417, TR 1082-1083].

65(d) Because Samoan aviation fuel prices are higher than Fiji's, Air New Zealand no longer takes on any aviation fuel at American Samoa. [GX 12].

66. American Samoa has suffered a loss of business, revenues, taxes and duties, due to SoCal's pricing policies, and the Samoan economy has suffered as a result. [TR 496, TR 519-520].

66(a) As a result of SoCal's price increase of 1.3¢ per gallon for SDFS in June, 1972, the GAS cost of doing business has been increased. [TR 506-507; TR 522].

66(b) Increased fuel prices result in loss of matching funds that are used by GAS to obtain federal programs for Samoa. [TR 519-520].

66(c) One reason why Pan Am resisted increasing flights through Samoa was the high cost of Samoan aviation fuel, and fuel and oil accounts for more than half of the total flying costs of Pan Am planes in the Pacific and approximately one-third of total aircraft operating expenses in that area. [TR 201-203, TR 453-454; GX 258-264].

67. Because of SoCal's dominant position in American Samoa, its illegal combination and conspiracy with the canners and the illegal requirements contracts, many potential competitive petroleum suppliers have been foreclosed from the market, including the following:

Stanvac:	[GX 254]
Mobil:	[GX 153, GX 174-182, GX 185, GX 192-194, GX 143B; TR 1279-1281]
UNOCO:	[GX 195-199, GX 58-61, GX 154-155, GX 200, GX 202, GX 206; TR 2633-2634]
Shell:	[GX 253AA, GX 253, GX 253A-D, GX 139, GX 207, GX 72, GX 156-158, GX 208-213; TR 489, TR 506-507]
Proposed Joint Fuel Storage Facility:	[GX 66-68, GX 74, GX 79A; TR 445-446, TR 1295-1296]
William R. McCook:	[TR 2064-2065, TR 2071, TR 2074; GX 228]
Time Oil:	[TR 2594, TR 2606, TR 2603-2604; GX 147, GX 172, GX 214-215]
British Petroleum:	[GX 229-234]

D. GENERAL FINDINGS

68. Neither the Permit and Agreement of 1956 [GX 9], nor SoCal's unilateral letter undertaking to base its Samoan prices on posted domestic prices at Richmond, California [D-3-0], nor the pertinent section of the Buy American Act [41 U.S.C. Sec. 10b(a)], required SoCal to provide only domestic fuel in Samoa.

68(a) Interior experts told SoCal in November 1964 that "The Buy American Act permitted purchase of foreign products by the Government of Samoa if there was more than a 6% price differential." [D-14 U].

68(b) SoCal never offered a price on foreign fuel to GAS during Governor Lee's tenure, although its use would have resulted in a considerable saving to Samoa. It was not until Governor Haydon had put out requests for proposals to other oil companies in early 1970, that SoCal sought authority to use foreign fuel. [TR 1278-1281, TR 1284, TR 1143, GX 250-252].

CONCLUSIONS OF LAW

1. The Court has jurisdiction over the subject matter of the complaint herein and the parties hereto.

[1] 2. SoCal has, since at least 1956, violated Section 3 of the Sherman Act by engaging in a continuing combination and conspiracy with various persons, including certain GAS officials and Van Camp and Star-Kist, to unreasonably restrain and monopolize the distribution and sale of petroleum products in American Samoa. United States v. Maryland and Virginia Milk Producers Ass'n., 168 F.Supp. 880, 881, 882 (D.C. D.C.1959), aff'd 362 U.S. 458, 80 S.Ct. 847, 4 L.Ed.2d 880 (1960); United States v. Patten, 226 U.S. 525, 544, 33 S.Ct. 141, 57 L.Ed. 333 (1913); American Tobacco Co. v. United States, 328 U.S. 781, 809, 66 S.Ct. 1125, 90 L.Ed. 1575 (1946); United States v.

United States Gypsum Co., 333 U.S. 364, 395-396, 68 S.Ct. 525, 92 L.Ed. 746 (1948); United States v. National City Lines, 186 F.2d 562, 572 (7th Cir. 1951), cert. denied, 341 U.S. 916, 71 S.Ct. 735, 95 L. Ed. 1351 (1951); Ethyl Gasoline Corp. v. United States, 309 U.S. 436, 453, 60 S.Ct. 618, 84 L.Ed. 852 (1940); United States v. Giuliano, 263 F.2d 582, 584 (3rd Cir. 1959); Holland v. United States, 348 U.S. 121, 75 S.Ct. 127, 99 L. Ed. 150 (1954); United States v. Nelson, 419 F.2d 1237, 1243-1245 (9th Cir. 1969).

3. Pursuant to said combination and conspiracy, SoCal acted in concert with the GAS officials involved to preclude other oil companies from competing with SoCal for the occupancy, use and control of the GAS bulk petroleum storage facilities.

4. Pursuant to said combination and conspiracy, SoCal entered into long-term requirements contracts with Van Camp (in 1956 and 1965) and with Star-Kist (in 1963).

5. Van Camp and Star-Kist have participated in the unlawful combination and conspiracy by informing SoCal in detail of competitive activity in Samoa, by tying their own requirements and those of their foreign fishing fleets to SoCal, and generally by protecting SoCal's monopoly position in Samoa.

6. The effect of the aforesaid combination and conspiracy has been unreasonably to restrain and monopolize the distribution and sale of petroleum products in American Samoa.

[2] 7. The long term requirements contracts which SoCal entered into with Van Camp, Star-Kist and Pan Am, are in and of themselves and apart from said combination and conspiracy, in unreasonable restraint of trade in petroleum products in American Samoa in violation of Section 3 of the Sherman Act, because they have foreclosed competition in a substantial share of that market. Standard Oil Company of California v. United States, 78 F.Supp. 850 (S.D.Cal. 1948) aff'd 337 U.S. 293, 69 S.Ct. 1051, 93 L.Ed. 1371 (1949); United States v. American Can, 87 F.Supp. 18 (N.D.Cal. 1949); Tampa Electric Co. v. Nashville Coal Co., 365 U.S. 320, 81 S.Ct. 623, 5 L.Ed.2d 580 (1961); Twin City Sportservice v. Finley, 365 F.Supp. 235 (N.D. Cal. 1972).

[3] 8. The relief necessary to open the Samoan market to competition and dispel the unlawful effects of the violations found herein is the following:

(a) that defendant is enjoined and restrained from continuing, reviving or renewing the aforesaid combination and conspiracy;

(b) that defendant is ordered to refrain from enforcing, continuing, reviving or renewing the aforesaid requirements contracts, or from entering into any other contracts having the same purpose or effect; and

(c) that defendant is ordered to take all necessary steps so as to enable other suppliers or distributors of petroleum products to use an adequate portion of the GAS storage facilities on a shared cost basis to enable said suppliers or distributors to compete in the Samoan market, in particular to afford GAS the opportunity to obtain competitive bids every three years commencing forthwith for its requirements of petroleum products. United States v. E. I. duPont deNemours & Co., 366 U.S. 316, 322, 81 S.Ct. 1243, 6 L.Ed.2d 318 (1961); Ford Motor Co. v. United States, 405 U.S. 562, 573-578, 92 S.Ct. 1142, 31 L.Ed.2d 492 (1972); International Salt Co. v. United States, 332 U.S. 392, 401, 68 S.Ct. 12, 92 L.Ed. 20 (1947); United States v. E. I. duPont & Co., 353 U.S. 586, 607-608, 77 S.Ct. 872, 1 L.Ed.2d 1057 (1957); United States v. Crescent Amusement Co., 323 U.S. 173, 185, 65 S.Ct. 254, 89 L.Ed. 160 (1944); Ethyl Gasoline Corporation v. United States, 309 U.S. 436, 461, 60 S.Ct. 618, 84 L.Ed. 852 (1940); United States v. United States Gypsum Co., 340 U.S. 76, 88-89, 71 S.Ct. 160, 95 L.Ed. 89 (1950); United States v. Loew's Inc., 371 U.S. 38, 53, 83 S.Ct. 97, 9 L.Ed.2d 11 (1962).

9. The parties are requested to file suggested changes, corrections, etc., in these findings and conclusions within thirty days of this date, along with a suggested form of final judgment.

F. JUDGMENT, ENTERED DECEMBER 14, 1972.

United States District Court for the
Northern District of California

(Title omitted in printing)

FINAL JUDGMENT

Plaintiff, United States of America, filed its complaint on September 30, 1969, and the defendant, Standard Oil of California ("SoCal") appeared and filed its answer. Trial having been completed and the court having considered the pleadings, evidence, briefs and arguments, and being fully informed, entered findings of fact and conclusions of law on October 26, 1972.

Now, therefore, it is hereby ordered, adjudged and decreed as follows:

I

This court has jurisdiction over the subject matter of the complaint herein and the parties hereto.

II

Based upon the court's findings of fact and its conclusions of law, the defendant has (1) engaged in a combination and conspiracy to unreasonably restrain and monopolize

trade and commerce in the distribution and sale of petroleum products in the United States Territory of American Samoa and between that Territory and States of the United States in violation of Section 3 of the Sherman Act; and (2) entered into contracts with Van Camp Sea Food Company ("Van Camp"), Star-Kist Foods, Inc. ("Star-Kist"), and Pan American World Airways ("Pan-Am") in unreasonable restraint of said trade and commerce in petroleum products in violation of Section 3 of the Sherman Act.

III

The provisions of this Final Judgment shall apply to the defendant, its successors, subsidiaries, assigns, officers, directors, agents and its employees, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV

(a) The defendant is enjoined and restrained from continuing, reviving, or renewing the aforesaid combination and conspiracy.

(b) The defendant is ordered to refrain from enforcing, continuing, reviving, or renewing any requirements contracts with customers in Samoa.

(c) The defendant is ordered to permit other suppliers or distributors of petroleum products to use an adequate portion of the Government of American Samoa ("GAS") petroleum storage facilities on a shared-cost basis to enable said suppliers or distributors to compete in the American Samoan market. Within sixty (60) days of the effective date hereof, defendant shall serve upon plaintiff a plan pursuant to which such suppliers or distributors will be permitted so to use the facilities. Thereafter the parties shall attempt to reach agreement on a plan to be filed with and approved by the Court. If agreement cannot be reached within one hundred twenty (120) days of the effective date hereof, resort shall be had to the Court for hearing and determination.

V

(a) For the purpose of determining or securing compliance with this Final Judgment, any duly authorized representative of the Department of Justice shall, upon written request of the Attorney General, or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant, made to its principal office, be permitted:

(1) Access during the office hours of said defendant to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendant relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of said defendant and without restraint or interference from it, to interview officers or employees of said defendant, who may have counsel present, regarding any such matters.

(b) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, the defendant shall submit such reports in writing to the plaintiff with respect to matters contained in this Final Judgment as may from time to time be requested.

(c) No information obtained by the means provided in this Section V shall be divulged by any representative of the Executive Branch to any person other than a duly authorized representative of such Branch, except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VI

Jurisdiction is retained for the purpose of enabling either of the parties to this Final Judgment to apply to this court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance therewith, and for the punishment of the violation of any of the provisions contained therein.

VII

Plaintiff shall recover the costs of this action from defendant.

Supreme Court, U. S.
FILED
AUG 26 1976
MICHAEL RODAK, JR., CLERK

No. 72-1251

In the Supreme Court of the United States

OCTOBER TERM, 1976

STANDARD OIL COMPANY OF CALIFORNIA, APPELLANT

v.

UNITED STATES OF AMERICA

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

MEMORANDUM FOR THE UNITED STATES IN RESPONSE TO MOTION TO RECALL MANDATE OF THIS COURT AND TO GRANT LEAVE TO THE DISTRICT COURT TO CONSIDER A MOTION TO SET ASIDE ITS JUDGMENT FOR FRAUD UPON THE COURT

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In the Supreme Court of the United States

OCTOBER TERM, 1976

No. 72-1251

STANDARD OIL COMPANY OF CALIFORNIA, APPELLANT

v.

UNITED STATES OF AMERICA

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

MEMORANDUM FOR THE UNITED STATES IN RESPONSE TO MOTION TO RECALL MANDATE OF THIS COURT AND TO GRANT LEAVE TO THE DISTRICT COURT TO CONSIDER A MOTION TO SET ASIDE ITS JUDGMENT FOR FRAUD UPON THE COURT

In 1972 the United States District Court for the Northern District of California held, after a trial, that the appellant Standard Oil Company of California ("SoCal") had violated Section 3 of the Sherman Act, 26 Stat. 209, as amended, 15 U.S.C. 3, by combining and conspiring unreasonably to restrain and to monopolize the distribution and sale of petroleum products in American Samoa and by entering into illegal requirements contracts with purchasers of those products.[1] *United States* v. *Standard Oil Company of California*, 362 F.Supp. 1331. The district court's judgment enjoined SoCal from continuing or renewing those violations, and also required it to share the use of the only petroleum storage facilities in American Samoa.[2]

In June, 1973, this Court summarily affirmed that judgment. 412 U.S. 924.

One of the findings of the district court was that William R. McCook was a competitor who had been excluded from the market in petroleum products in American Samoa by SoCal's anti-competitive conduct. 362 F. Supp. at 1340. In May, 1974, McCook filed a treble damage suit against SoCal[3] in which, under Section 5(a) of the Clayton Act, 38 Stat. 731, as amended, 15 U.S.C. 16(a), the judgment in the government's suit is "prima facie evidence * * * as to all matters respecting which said judgment * * * would be an estoppel as between the parties thereto * * *."

SoCal has now filed a motion requesting this Court to recall its mandate affirming the district court's 1972 judgment, and to grant the district court leave

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[1] On a prior appeal, this Court held that Section 3 of the Sherman Act applies to American Samoa. *United States* v. *Standard Oil Company of California*, 404 U.S. 558.

[2] Petroleum storage facilities on American Samoa are owned by the Government of American Samoa, and after 1956 only SoCal had access to them (App. 760).

[3] *William R. McCook* v. *Standard Oil Company of California, et al.*, C.D. Cal., CV 75-1190 H.P.

to consider a motion under Rule 60(b) of the Federal Rules of Civil Procedure to set aside the judgment for fraud upon that court.[4] SoCal alleges that McCook and his agents produced documents in discovery proceedings in the private suit which they "fraudulently" withheld in the government case, that the chief government counsel was aware of some of those documents before trial but did not produce them despite requests by SoCal, and that he failed to produce before the hearing on relief other documents which the government had received from McCook's agent after the trial and which the district court had requested in connection with the relief proceedings.

For the reasons set forth below, the United States submits that leave of this Court should not be required before SoCal may file its motion in the district court. If, however, the Court concludes that its leave is necessary to file the motion in the district court, the United States opposes the motion insofar as it charges misconduct by McCook and his agents, but consents to the motion insofar as it alleges willful misconduct by government counsel. In any event, the United States opposes the recall of this Court's judgment.

The United States denies SoCal's charges that government counsel participated in suppressing any relevant documents in the government suit, and in appendices to this memorandum we set forth the facts supporting our position. Our consent to granting SoCal leave to file on this issue is based solely upon the fact that the determination of these charges will require detailed analysis and study of extensive material, which we believe the district court rather than this Court should make in the first instance.

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[4] In the treble damage case, SoCal requested the district court to deny McCook the *prima facie* effect the judgment in the government suit ordinarily has. That request was denied (Br. 7-9). If leave is granted to file the motion in the district court, CoSal will ask that court to deny any effect to the judgment to McCook (Br. 42, n. 27).

I

A. Although for many years it was well settled that "[f]ederal courts, both trial and appellate * * * would not alter or set aside their judgments after the expiration of the term at which the judgments were finally entered,"[5] an exception was made in cases where there was "after-discovered fraud" (*Hazel-Atlas Glass Co.* v. *Hartford-Empire Co.*, 322 U.S. 238, 244). Where the judgment sought to be impeached for fraud "had been acted upon by an appellate court," the practice was that leave was required of the appellate court to initiate the proceeding, "because a trial court lacks the power to deviate from the mandate of an appellate court" (*Hazel-Atlas*, *supra*, p. 248). Although as eminent an authority on federal procedure as the late Judge Charles Clark argued that the thrust of the modern Federal Rules of Civil Procedure toward simplicity and economy makes this

leave requirement archaic,[6] six of the seven circuits that have decided the question since adoption of the Rules have continued to require such leave.[7]

We have difficulty discerning any compelling reason to continue the leave requirement. Practical considerations counsel against it. The determination whether particular allegations, if proven, would be sufficient to reopen an outstanding judgment and, if so, the selection of the appropriate procedures for adjudicating the merits of those allegations are usually matters turning upon the facts and issues in a particular case. As such, they are more appropriately decided initially by the district court, where in many cases the judge hearing the motion will be the one before whom the case was tried and therefore will be thoroughly familiar with its details. As the Court of Appeals for the Tenth Circuit stated, in holding that its leave was not required to file a Rule 60(b) motion for fraud, "the trial court is in a better position to pass upon the issues presented in a motion pursuant to Rule 60(b)." *Wilkin* v. *Sunbeam Corp.*, 405 F.2d 165, 166 (C.A. 10).

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[5] Formal terms for the district courts were abolished in 1948. 62 Stat. 897. See also, 77 Stat. 248; 28 U.S.C. 138, 452.

[6] *S.C. Johnson & Son* v. *Johnson*, 175 F.2d 176, 183-184 (C.A. 2) (Clark, J., dissenting); *Perlman* v. *322 West Seventy-Second St. Co.*, 127 F.2d 716 (C.A. 2) (dictum).

[7] First circuit: *Wilson Research Corp.* v. *Piolite Plastics Corp.*, 336 F.2d 303, 305; third circuit: *Butcher & Sherrerd* v. *Welsh*, 206 F.2d 259, 262, certiorari denied, 346 U.S. 925; fourth circuit: *Tribble* v. *Bruin*, 279 F.2d 424, 427; sixth circuit: *Home Indemnity Co.* v. *O'Brien*, 112 F.2d 387, 388; seventh circuit: *Geuder, Paeschke & Frey Co.* v. *Clark*, 288 F.2d 1, 4, certiorari denied, 368 U.S. 826 (extending requirement to independent action); eighth circuit: *Hartman* v. *Lauchli*, 304 F.2d 431, 432-433.

Only the tenth circuit has rejected the requirement. *Wilkin* v. *Sunbeam Corp.*, 405 F.2d 165, 166. The second and fifth circuits have considered but not decided the issue. *Doe* v. *Hodgson*, 500 F.2d 1206, 1207 (C.A. 2); *Dickerson* v. *Continental Oil Co.*, 476 F.2d 635, 636 (C.A. 5); *Bros Inc.* v. *W. E. Grace Mfg. Co.*, 320 F.2d 594, 607 (C.A. 5).

In 1955 the Advisory Committee on the Federal Rules of Civil Procedure recommended expressly abolishing the leave requirement, characterizing it as a "useless and delaying formalism," but the amendment was not adopted. See 7 Moore's *Federal Practice* ¶ 60.30[2], p. 429 n. 27 (2d ed. 1975).

Wright and Miller concur in the committee's assessment. 11 Wright & Miller, *Federal Practice and Procedure: Civil* § 2870, p. 269 (1973). Moore, on the other hand, defends the requirement for leave as a means to "screen out attacks that are clearly without merit," and opposes elimination as "unnecessarily undermin[ing] the finality of judgments." 7 Moore, *supra*.

The present practice, under which the appellate court makes a preliminary determination whether the allegations are sufficient to warrant consideration by the lower court—which is "not just a ceremonial gesture," *Hazel-Atlas*, *supra*, 322 U.S. at 248 —necessarily duplicates the more extensive consideration later made by the district court, and appears to be an unnecessary use of judicial resources. There is no reason to believe that the district courts are incapable of establishing appropriate procedures to weed out unmeritorious motions.[8]

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[8] In fact, relief against judgments on certain grounds may also be obtained in independent actions, which are generally not subject to a leave requirement. Restatement, *Judgments* § 144, Comment c. But see *Geuder, Paeschke & Frey Co.* v. *Clark*, *supra* (requiring leave for independent action).

Accordingly, the United States believes that it would be appropriate for this Court to rule that its leave is not required to permit the filing of a motion to vacate for fraud a judgment that it has affirmed.

B. SoCal urges (Br. 10) that this Court not only grant leave to file in the district court, but also recall its mandate.[9] It is neither necessary nor appropriate that the Court take such action.

In *Hazel-Atlas*, which SoCal cites for this requirement (Br. 10), this Court directed the court of appeals to recall its mandate and issue a different one to the district court (322 U.S. at 251).[10] That action, however, was taken only because the Court concluded that the court of appeals' judgment in fact had been procured by fraud and that the ensuing district court judgment entered in compliance with that court's mandate must be expunged. Recall of the mandate in that case thus was necessary to effectuate this Court's decision.

In the present case, however, there is neither need nor occasion for this Court to recall its mandate. If the Court concludes that its leave is necessary before SoCal may file its motion in the district court, it can fully accomplish that purpose by granting leave. When such leave is granted, any subsequent modification or vacation by the district court of its previous judgment would not involve any interference with, deviation from or frustration of this Court's judgment.

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[9] A copy of the judgment issued in lieu of a mandate under Rule 59(3) of the Rules of this Court. Such a judgment is the practical equivalent of a mandate. Cf. *Tkaczyk* v. *Gallagher*, 265 F.Supp. 791, 792 (D. Conn.); Fed. R. App. P. 41(a).

[10] Neither of the two other cases SoCal cites suggests that recall is appropriate.

The recall of this Court's judgment could suggest that the district court judgment should be suspended until the merits of the motion to vacate have been determined. Such action would be inconsistent with Rule 60(b) itself, which provides that the filing of a motion thereunder "does not affect the finality of a judgment or suspend its operation."

As a result of the district court's judgment (App. 779-780), SoCal is presently sharing with a competitor the bulk petroleum storage facilities on American Samoa. There is no reason to upset this court-ordered relief on the basis of SoCal's unproven allegations.

II

Rule 60(b) of the Federal Rules of Civil Procedure permits a district court, within one year of the entry of judgment, to relieve a party from that judgment for a number of reasons, including newly discovered evidence (Rule 60(b)(2)) and "fraud (whether heretofore denominated intrinsic or extrinsic) misrepresentation, or other misconduct of an adverse party" (Rule 60(b)(3)). Rule 60(b)(6) permits a court to provide similar relief for "any other reason justifying relief from the operation of the judgment," if the motion is made within a reasonable time. Rule 60(b) also states that it does not "limit the power of a court * * * to set aside a judgment for fraud upon the court." Since the judgment which SoCal seeks to reopen was entered more than a year ago, and is based upon alleged misconduct, SoCal must establish that the misconduct would constitute "fraud upon the court" or some other "extraordinary circumstances" of like gravity that would outweigh the general policy of finality of judgments that Rule 60(b) reflects. *Ackermann* v. *United States*, 340 U.S. 193, 200.

SoCal's claim for relief is based upon two distinct allegations of misconduct, one directed at a third-party deposition witness in the government case and his agents and the other at counsel for the government. First, it contends that prior to the trial of the government's case, McCook, Richard B. Lynn (a lawyer who represented McCook), and Raymond C. Turnbull (a promoter also interested in entering the petroleum business in American Samoa, who sometimes acted as agent for McCook) failed to turn over to SoCal documents in their possession which, SoCal asserts, refuted or substantially weakened some of the government's case. Second, SoCal charges that the government's chief counsel was aware of or possessed copies of the documents, but failed to disclose some of them to SoCal before trial despite its request, and failed to disclose other documents between the judgment and the hearing on relief despite an order of the district court.

As explained below, if this Court concludes that its leave is necessary before SoCal may file its motion in the district court, we oppose leave with respect to the charges based upon alleged misconduct by McCook, Lynn and Turnbull, but do not oppose leave with respect to the charges based upon alleged willful misconduct by government counsel.

A. The most widely adopted definition of "fraud upon the court" is that of Professor Moore, who says it should

> embrace only that species of fraud which does or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjuding [*sic*] cases that are presented for adjudication. Fraud *inter partes*, without more, should not be a fraud upon the court, but redress should be left to a motion under 60(b)(3) or to the independent action.

7 Moore's *Federal Practice* ¶ 60.33, p. 515 (2d ed. 1975).[11] Examples of fraud on the court include corruption of judges, *Root Refining Co.* v. *Universal Oil Products Co.*, 169 F.2d 514 (C.A. 3), certiorari denied *sub nom. Universal Oil Products* v. *William Whitman Co.*, 335 U.S. 912, or an unconscionable scheme, including the participation of lawyers, to secure and enforce a patent by the fraudulent manufacture of evidence and continuing efforts to prevent discovery of the fraud. *Hazel-Atlas Glass Co.* v. *Hartford-Empire Co.*, 322 U.S. 238.[12] Even perjured testimony by a party does not, without more, constitute fraud on the court. *Serzysko* v. *Chase Manhattan Bank*, 461 F. 2d 699, 702 (C.A.2), certiorari denied, 409 U.S. 883; *Petry* v. *General Motors Corp.*, 62 F.R.D. 357, 360-361 (E.D. Pa.); *Lockwood* v. *Bowles*, 46 F.R.D. 625, 631-634 (D. D.C.); cf. *Hazel-Atlas, supra*, 322 U.S. at 245 ("[t]his is not simply a case of a judgment obtained with the aid of a witness who, on the basis of after-discovered evidence, is believed possibly to have been guilty of perjury").

Misconduct by a third-party witness would merely constitute "newly discovered evidence" under Rule 60(b)(2). It would not be fraud upon the court, and would not warrant vacating a judgment under Rule 60(b)(6) when the time for a motion based on fraud by the successful party has expired.[13] See *Klapprott* v. *United States*, 335 U.S. 601, 613; *Simons* v. *United States*, 452 F. 2d 1110, 1115 (C.A. 2); 7

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[11] Such fraud must be proven by clear and convincing evidence. *Brown* v. *Pennsylvania R.R.*, 282 F.2d 522 (C.A. 3); *Consolidated Gas & Equipment Co.* v. *Carver*, 257 F.2d 111, 114 (C.A. 10); *Atchison, T. & S.F. Ry.* v. *Barrett*, 246 F.2d 846, 849 (C.A. 9); *Assman* v. *Fleming*, 159 F.2d 332, 336 (C.A. 8).

[12] See also *Wilkin* v. *Sunbeam Corp.*, 466 F.2d 714, 717 (C.A. 10), certiorari denied, 409 U.S. 1126; *Serzysko* v. *Chase Manhattan Bank*, 461 F.2d 699, 702 (C.A. 2), certiorari denied, 409 U.S. 883; *Kupferman* v. *Consolidated Research & Mfg. Corp.*, 459 F.2d 1072, 1078 (C.A. 2); *Martina Theatre Corp.* v. *Schine Chain Theatres, Inc.*, 278 F.2d 798, 801 (C.A. 2); *England* v. *Doyle*, 281 F.2d 304, 309 (C.A. 9); *Groves* v. *Witherspoon*, 379 F.Supp. 52, 62 (E.D. Tenn.).

[13] In *Peacock Records, Inc.* v. *Checker Records, Inc.*, 365 F.2d 145 (C.A. 7), relied upon by SoCal (Br. 41), the perjury was allegedly suborned by the successful party, and the Rule 60(b) motion was made within one year after judgment. *Id.* at 146. Thus it was probably based on Rule 60(b)(2) or (3). See *Lockwood* v. *Bowles*, 46 F.R.D. 625, 633 n. 35 (D. D.C.).

Moore, *supra*, ¶ 60.24[5], p. 291 n. 16. But see *McKinney* v. *Boyle*, 404 F. 2d 632, 634 (C.A. 9), certiorari denied, 394 U.S. 992. Since even perjury by a non-party witness does not constitute fraud on the court, *a fortiori* SoCal's allegation that McCook and his agents failed to turn over to it certain documents in their possession that allegedly would have aided SoCal's case does not constitute such fraud.

SoCal argues (Br. 42) that this case is different from the ordinary case of misconduct by a third-party witness because the judgment in the government suit would have a *prima facie* evidentiary effect in McCook's suit against it. It cites no authority for this distinction, and has shown no compelling reason why the United States should be required to relitigate the entire case at this late date because of misconduct by a third party.[14] The evidence it seeks to impeach affects only one of 68 findings, and only two of eight victims of SoCal's monopolistic practices (App. 774, ¶ 67); even without those findings the evidence would be ample to support the decree.[15] SoCal has a remedy against McCook: the judgment in the government action is only *prima facie* evidence on McCook's behalf, and SoCal can use its allegedly newly discovered documents to rebut such evidence.

B. The question whether all types of misconduct by a party's attorney constitute fraud on the court under Rule 60(b) is unresolved. The court of appeals for the Second Circuit has indicated that such misconduct is *ipso facto* fraud on the court.[16] On the other hand, our discussion of that subject, *supra*, suggests that a court might well conclude that not all misconduct by a lawyer ordinarily constitutes such fraud.

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[14] In a footnote SoCal cites two cases dealing with relief given to a party to a suit. The first involved relief given under Rule 60(b) (6) on behalf of an adjudicated incompetent, where denial of relief would have involved moving a patient from St. Elizabeth's Hospital in Washington, D.C., near her mother's residence, to California. *District of Columbia* v. *Stackhouse*, 239 F.2d 62 (C.A.D.C.). The second, like *Hazel-Atlas*, involved patent fraud; the plaintiff was denied enforcement of a patent assigned to it by defendant's employee because it had failed to inform the Patent Office of known fraud in the patent application, and thus had "unclean hands." *Precision Instrument Mfg. Co.* v. *Automotive Maintenance Mach. Co.*, 324 U.S. 806, 818-819. Neither case supports the reopening of a final judgment on the basis of fraud by a third-party witness, where the fraud was not known to either of the parties.

[15] Even if SoCal had filed a motion under Rule 60(b) (2) within the one-year limit, it could not have prevailed. To set aside a judgment under Rule 59 or 60 on the basis of newly discovered evidence, "it is essential at least that the evidence sought to be introduced is such that it would probably change the result" of the original trial, *Gill* v. *United States*, 184 F.2d 49, 55 (C.A. 2), and is not "merely cumulative or impeaching." *Trans Mississippi Corp.* v. *United States*, 494 F.2d 770, 773 (C.A. 5). Accord, 7 Moore, *supra*, ¶ 60.23[4], pp. 275-276, and cases cited therein. As shown in Appendix B to this memorandum, the new documents SoCal proffers are mostly cumulative, none presents new exculpatory information for SoCal and, indeed, some tend to confirm the district court's original findings.

[16] *Serzysko* v. *Chase Manhattan Bank*, *supra*, 461 F.2d at 702; *Kupferman* v. *Consolidated Research & Mfg. Corp.*, 459 F. 2d 1072, 1078 (C.A. 2); 7 Moore *supra*, ¶ 60.33, p. 513. Accord, 11 Wright & Miller, *supra*, § 2870, pp. 255-257.

It is unclear whether SoCal is charging government counsel with willful misconduct or merely with negligence. In a hearing on the government's motion for a protective order against a subpoena duces tecum in the private action, the district court asked SoCal's counsel: "[A]re you contending that Mr. Hollander [the government counsel] intentionally suppressed relevant documents?" and the reply was: "We are not contending that, your Honor" (App. 742). Although SoCal suggests (Br. 44) that the judgment in the government case should be set aside even for "negligent suppression" of exculpatory evidence, such conduct would at most support a claim of newly discovered evidence, which is barred by the one-year limitation of Rule 60(b)(2), but not fraud on the court. The cases SoCal cites (Br. 42-46) in which judgments have been set aside because of the government's failure to produce exculpatory material in its possession are all criminal cases which implicate the constitutional rights of the defendant and involve quite different considerations from SoCal's attempt to vacate the judgment in a government civil antitrust suit.

Evaluation of SoCal's charges against government counsel will require a detailed analysis of a substantial amount of documentary material and testimony, involving a careful comparison of the allegedly newly discovered evidence with the evidence at trial. Although we deny SoCal's charges, we believe that the district court rather than this Court should evaluate them in the first instance. "[W]here the facts are complicated it is often the better course to grant leave and to allow available defenses to be made in answer to the bill" (Mr. Justice Roberts, dissenting, in *Hazel-Atlas*, *supra*, 322 U.S. at 271; footnote omitted). Accordingly, if the Court concludes that its leave is required for SoCal to file the motion in the district court, the United States does not oppose such leave, limited to a claim of willful misconduct by government counsel.

CONCLUSION

The motion for leave to file and to recall the mandate should be denied, without prejudice to the filing of the former motion in the district court. If, however, the Court concludes that its leave is necessary for such filing, leave should be granted, limited to the claim of willful misconduct by government counsel.

Respectfully submitted.

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AUGUST 1976.

APPENDIX A

The Evidence Refutes the Allegations of Misconduct by the United States

(a) Alleged Withholding of Documents Prior to Trial.

SoCal's charge that a government attorney, Bernard M. Hollander, withheld documents given to him before trial is based solely upon the testimony of Raymond Turnbull in November, 1975, that he had given all his documents to Hollander when they first met in October, 1969, and that Hollander took them all to copy (Br. 32-35; App. 556-558, 580, 595).[1] This testimony, however, was taken six years after the event in question, and has many inconsistencies. SoCal itself points to three different answers by Turnbull to the question whether one document had been in his files (Br. 22, n. 23). His entire testimony shows that Turnbull was not testifying to a specific recollection, but from an "assumption," a mental reconstruction of what he thought must have happened (App. 596). He did not recall excluding or withholding anything (App. 607, 611-612). Similarly, Turnbull testified at the outset that he gave Hollander both file folders and loose documents (App. 561), later that he pulled out no loose documents (App. 612), and finally that he may have pulled out file folders and believed that he pulled out separate documents, but "I do not remember" (App. 634). He could not remember a single specific file folder that he gave to Hollander (App. 630-637).

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[1] Neither McCook nor Lynn gave any documents to Hollander.

In an affidavit (App. 696), Hollander repeated a statement he had made to SoCal's counsel on May 13, 1971, that he could not recall any documents provided to the government by Turnbull which were not marked for identification and turned over to SoCal.

The reliability of Turnbull's present recollection that he turned over to the government all the documents recently produced for SoCal is further weakened by the contemporaneous written record. Turnbull could not recall receiving a receipt from Hollander for the documents he turned over (App. 558). In fact a receipt, dated October 29, 1969, was given (App. 273, 705), and, in addition, Turnbull signed a receipt for Hollander when the documents were returned (App. 274-275, 697). These receipts refer to only three of the ten file folders Turnbull recently produced for SoCal (compare App. 273-275, with App. 234-242, 630-631).[2] Thus, the receipts prepared at that time contradict the testimony of Turnbull that he turned over all his documents to the government.

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[2] The documents the government turned over to SoCal in the government's case correspond to the file titles indicated in the receipts. In addition, the government turned over a letter from McCook to Governor Lee which was obtained through subsequent correspondence between government counsel and Turnbull's counsel (App. 79-80, 271-272, 275, 705). The three files contain correspondence with Union Oil Company (App. 1-19), Governor Lee (App. 20-51), and Summit Industrial Corporation (App. 52-78, 81-100).

(b) Alleged Withholding of Documents Received after Trial, but Prior to Judgment.

After this Court had affirmed the district court's judgment that SoCal had violated the antitrust laws, the court considered the question of relief. SoCal submitted a proposed plan to the district court under which it would share its petroleum storage facilities on Pago Pago Bay. The government solicited the views of potential entrants into the market on SoCal's plan (App. 434-435) and transmitted those views to SoCal and the court (App. 464-470).

Turnbull sent government counsel a letter which commented unfavorably upon SoCal's relief plan (App. 436). The letter urged the development of petroleum storage facilities in Nu'Uli Lagoon, some six miles from SoCal's facilities. Turnbull indicated in the letter that correspondence between himself and Dillingham, a contractor, on the feasibility of the Nu'Uli project was attached. Turnbull's letter was turned over to the district court and SoCal since it contained comments upon SoCal's relief plan (App. 464, 468). The attached documents were not turned over to SoCal because they did not relate to SoCal's relief plan, but instead sought to promote a project that Turnbull had been pushing for a number of years (App. 437-458).

SoCal's present allegation of fraud is based on the government's failure to turn over to it the attachments to the Turnbull letter. The letter itself was admittedly turned over to SoCal. The body of the letter described the attached correspondence. The existence of the attached documents was also shown by the indication of "14 Enclosures" at the bottom of the letter. SoCal may have mistaken the nature of the documents (Br. 36), and never asked to see them, but that is not evidence of fraud by the United States.

The failure of the United States to turn the documents over did not violate the court's order of October 23, 1973 (App. 462), which covered only comments on SoCal's proposed plan and was designed to enable SoCal to secure copies of letters supporting its position on relief (App. 461-462). The attachments to Turnbull's letter would not have supported SoCal's proposal.

APPENDIX B

An Analysis of the Documents at Issue Indicates that None Contains Information that was Unavailable to SoCal at the Time of the Government's Suit.

The following is an analysis of the documents alleged by SoCal to be significant new evidence. The United States does not consider this analysis to be decisive of the issues presented by SoCal, but offers it to allay any concern that the absence of the documents in the original trial may have affected the result.

SoCal argues that nine of the 67 new documents produced are significantly exculpatory, but its arguments are based on a selective statement of facts and previous evidence. The true significance of the nine new documents which SoCal relies upon can only be appreciated in light of the events which were brought out at the trial. A brief summary of the salient facts is set out below to present a more accurate picture of the nature of the documents which SoCal claims would have shown its innocence.

SoCal had a basic competitive advantage in selling petroleum products in Samoa because it had a fifty-year agreement giving it control of the only existing bulk petroleum tank facilities on the island, at a cost of only a fraction of their real value (App. 760 ¶ 9, 762-763 ¶¶ 17-18).[3] Turnbull, an independent entrepeneur and promoter, attempted to interest at least four oil companies to enter American Samoa (App. 44—Asiatic Petroleum (Shell); App. 51—Unoco, Mobil, and Summit) from 1963 to 1965. McCook was involved only with the Summit Petroleum Company enterprise.

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[3] It also had long-term requirements contracts with major users of petroleum products on the island, which the district

Letters produced in the government suit show that in June, 1964, Turnbull began to correspond with J.T. Shaw, president of Summit, about the sale of petroleum products on Samoa (App. 56), that in October, 1964, Shaw stated that storage tanks were needed (App. 62-64), and that thereafter Turnbull began to seek financing for such tanks (App. 65-68; see App. 50). McCook became involved in this phase of the venture (App. 476) and became its prime owner (deposition of Turnbull, Oct. 1, 1970, p. 207). McCook made a proposal to Governor Lee on August 13, 1965 (a) for McCook to establish a petroleum bulk facility in Pago Pago Harbor, (b) for Oceanic Petroleum Corporation, a Shaw enterprise, to supply the petroleum products and (c) for a new Samoan company, headed by McCook, to buy and sell the products (App. 79-80).

While this project was being planned, Governor Lee and two fish canneries, the other major consumers and conduits of petroleum products on the island, were seeking other petroleum sources. They considered construction of their own bulk storage facilities as a joint venture, to be operated by the American Samoan Development Corporation. These various activities became known to SoCal, which began to reduce its prices (App. 766).

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court found unreasonably restrained trade (App. 776-777 ¶ 7). The existence of these long-term contracts with major local customers lessened the incentive for a potential competitor to invest in major additional storage facilities.

First, in February, 1965, it initiated a general price reduction, including a reduction in the price of diesel fuel, from 14.95 cents to 13.95 cents per gallon, and then in mid-July, 1965, it reduced diesel fuel prices by an additional two cents for both canneries, retroactive to July 1 (App. 767-768). This reduction was to induce one of the canners, Van Camp Sea Food Company, to agree to reinstate a long-term requirements contract with SoCal (App. 766-767). Van Camp and SoCal agreed to such a contract in principle on July 12, 1965 (App. 767), although Van Camp did not formally accept the contract until February 9, 1966 (GX 26, eighth page).

SoCal withheld the second price reduction from the government of American Samoa until October 25, 1965, in order to induce Governor Lee to sign a long-term requirements contract (App. 768). On that date, SoCal reduced the price for the government to 11.95 cents a gallon, retroactive to July 1, in a meeting at which Governor Lee informed SoCal representatives that he was considering better offers from two other companies. The internal SoCal memorandum describing that meeting ends:

> In our opinion, if the Governor was working under the impression that Van Camp was being

> supplied at $.115, he may have been assuming that this price might be available to him from some other supplier.
>
> At this time, the Governor is absolutely firm in his refusal to sign a contract until he has evaluated other offers. In our opinion, all we can do at this time is to be prepared to move very rapidly with a lower price if we are given the opportunity to do so, or to offer a price of $.115 during our next interview with the hope of stopping any further negotiations with other companies and obtaining a signed contract. [Addendum A]

The significance of the nine new documents presently relied upon by SoCal must be considered in the framework of the foregoing sequence of events.

(1) *McCook's letter to Governor Lee on October 5, 1965* (App. 189). Appellant contends that this would show that McCook was not deterred from entering the market by SoCal's price cuts (Br. 21). A more complete view of McCook's testimony (Addendum B) and the other evidence shows that it was the later, October 25, price reduction to the government, and McCook's ultimate, correct realization that SoCal would better any offer he could make, that finally dissuaded him.

(2) *Governor Lee's letter to McCook of November 16, 1965* (App. 190). Appellant argues that this shows Governor Lee's continued interest in McCook's proposal (Br. 21-22). This argument is inconsistent with appellant's original defense that McCook's proposal died for lack of interest of Governor Lee (App. 735-736), but it does not show continued interest by McCook. Indeed, McCook's terse annotation on the face

of this letter "tell Ray [Turnbull] & file," indicates the contrary.

(3) *Turnbull's letter to Dillingham Corp. on November 24, 1965* (App. 191; Br. 22). This is the letter which SoCal considers most significant among the documents received by the United States after the judgment. SoCal implies that it shows continued interest by Turnbull in McCook's proposal despite SoCal's October, 1965, price reduction. It relates, however, to a development in Tafuna Bay, Nu'Uli Lagoon, a project which Turnbull had been working on independently of McCook since 1963 (App. 437-455). McCook's proposal to Governor Lee expressed a desire "to establish a petroleum bulk facility in Pago Pago Harbor" (App. 79), a different part of the island. In any case, as SoCal admits (Br. 23), Turnbull's continued interest as late as November 15, 1965, well after the October 25 price reduction, had been established by a document produced before trial and introduced into evidence (App. 51). The gravamen of SoCal's complaint is not that the district court was unaware of Turnbull's continuing interest, but that it did not give that factor the weight SoCal attributed to it.

(4) *McCook's Annotation of Governor Lee's Washington office telephone number* (App. 200; Br. 23-24). McCook's telephone call to Governor Lee's Washington office had been previously documented (App. 76) and turned over to SoCal.[4]

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[4] Apparently even in 1970 and 1971 neither McCook nor Governor Lee could remember having had oral communica-

(5) *Briefing document* (App. 221-223; Br. 24). McCook testified that this document was probably prepared by Turnbull before August 13, 1965 (App. 520-521). To the extent that it may reflect Turnbull's understanding of the fish companies' intentions in August, 1965, it is merely cumulative of a later August 25 letter produced in the government suit (App. 76, 521).

(6) *Turnbull's letter to Dillingham Corp. on April 21, 1965* (App. 172-173; Br. 24-25). Appellant argues that this shows that the fishing fleets, major fuel users, were not bound by the canneries' requirements contracts. As such, this evidence is merely cumulative; the district court made stronger findings regarding possible independent action by the fishing fleets (App. 765 ¶¶ 24(a), (b), (e)). Such evidence was simply outweighed by evidence of credit arrangements and a course of dealing which indicated that, as a practical matter, the fishing fleets would buy their fuel through the canneries as long as the price was not excessively unreasonable (App. 5, 70, 82, 261, 769-771 ¶¶ 44, 46-57).

(7) *Turnbull's correspondence with Shell Oil Company, July-August, 1965* (App. 177, 183; Br. 25).

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tion five or six years earlier (App. 484-486, 488-492), much less the substance of any such communication. The new documents show no more than that the Governor asked about the financial strength of McCook's supplier (App. 189). McCook's more recent deposition shows that he has no clear recollection of any conversation with Governor Lee, even after the correspondence was used to refresh his recollection (deposition, Feb. 11, 1976, pp. 622-623) (Addendum C).

These documents confirm rather than rebut the documents produced earlier, which are set forth in Addendum D. They show, as Shell stated to Turnbull on August 5, 1965, that Shell could not compete on the basis of its conventional source of supply (App. 183). Its tentative interest on that date was premised on Turnbull providing an alternative source of supply; there is no evidence that Turnbull ever responded. Despite even later visits and correspondence shown in the earlier record (Addendum E), Shell remained, as the district court found, excluded from the market (App. 763 ¶ 19-19(d), 767-768 ¶ 35, 774 ¶ 67).

(8) *Turnbull's Letter to Paul Gallien of Asiatic Petroleum Corp.* (App. 152; Br. 26). This document is also cumulative. Turnbull's contact with Gallien (or Galeon), and the further fact that Gallien had replied, were known from a letter to Governor Lee produced in the government suit (App. 44).[5]

(9) *Letters between McCook and Governor Lee* (Br. 26-28). For the reasons stated in paragraphs (1), (2), and (4) above, these documents provide no basis for impeachment of any substantive evidence

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[5] Asiatic Petroleum Corp. is a marketing unit in the Royal Dutch-Shell Group. Moody's Industrial Manual 3051 (1971). This was know to SoCal in 1970; in fact two contracts between SoCal and Asiatic (GX 37 and 38) were the basis for the district court's finding that "*Shell* never entered the aviation fuel market in Samoa except by arrangement with SoCal" (App. 763 ¶ 19(c) (emphasis added)). Turnbull was fully cross-examined on the matter in a deposition taken in the government case; SoCal's Appendix excerpt from that deposition is overly selective. See Addendum F.

given in the government suit. Rather, they are inconsistent with SoCal's defense in that suit—that McCook's proposal simply died from lack of interest by Governor Lee (App. 735-736).

Viewing the record below as a whole, none of the documents cited by SoCal presents any information which was unavailable to SoCal at the time of the original trial.

ADDENDUM A

United States v. *Standard Oil Company of California*
N.D. Cal., Civ. No. 52334-SC

GX-39

GX-39

Honolulu, Hawaii
October 27, 1965

MEMORANDUM ON DISCUSSIONS WITH GOVERNOR LEE

OCTOBER 25, 1965

MR. A. E. STEVENS
San Francisco

On October 25, 1965, Messrs. D. D. Collins and F. B. Goodrich met with Governor H. Rex Lee for the purpose of further negotiations toward finalizing our Samoa power plant products contract. Governor Lee opened by giving us his up to the minute stand on the matter. He stated that he absolutely could not sign a contract with us at this time and it was inferred that he must take this stand regardless of what price we might offer him. He stated that he had received an offer from an independent oil company, the reliability of which had been checked out and proven by his staff, which shaded our offer. Furthermore, a major oil company is currently in the process of presenting a complete proposal to him and that this proposal is expected to be in his hands within 30 days. He further stated that approximately 18 months ago another major oil company presented him with a very attractive proposal which bettered our then arrangement with GAS. That major, however, withdrew their proposal and according to the Governor, their withdrawal was based on some other consideration and not due to economics. Since he has one proposal in hand and expects to receive another complete proposal within 30 days, the Governor feels that he absolutely could not sign with us now because it is his responsibility to bring consumer electricity costs at American Samoa down as much as possible.

At this point, we mentioned that we believed that one time the Government was paying about $.18 per gallon for diesel for their power plant and we wondered if in view of the subsequent reductions the Government had been able to reduce consumer electricity costs. At this, the Governor said that while it is true their diesel cost had gone down considerably since he first arrived in Samoa and that while it is true approximately 70% of their electricity costs is represented by the cost of diesel, they have been unable to make any reductions in consumer costs to date. He stated that he found, upon arriving in Samoa, that the Government was, in fact, subsidizing industry and consumers by charging consumers at a level that did not recover their cost to produce and deliver power. He stated furthermore he found a written contract between the Government of American Samoa and Van Camp whereby the GAS was in essence obligated to give Van Camp a rate that was somewhat less than cost. He did not elaborate. He went on to say that this written contract is no longer in force and that the GAS actually does not know what it does cost to deliver power. He stated that an accounting study is currently under way and he should know in a relatively short time just exactly what their costs are. He stated that since power consumption has gone up almost fourfold since he arrived, he was reasonably sure that the GAS is no longer selling power at below cost and that if it is proven that the rate is too high after considering not only production costs but also amortization of facilities, he will pass on a rate saving to consumers.

We then asked if the Government of American Samoa was certain that the fuel offered by his other sources was of at least comparable quality to ours. The Governor stated that he as well as his specialists are convinced that the other fuel is of at least and in one case is better in quality than ours. He reiterated that he had checked out the reliability of the other suppliers, stating that sources could be the West Coast, the Far East, and/or the "Straits". He did not elaborate on the latter source but this could mean Indonesia. We then covered briefly our latest offer which entailed a five-year contract for fuel delivered to the power plant at $.1195 per gallon with a 10-year extension when both tanker and shoreside facilities are constructed, with a price reopening clause every 12 months. During this part of the conversation, Governor Lee kept mentioning our price as "eleven nine" and we, after a point, corrected him by saying that our offer was for not "eleven nine" but for "eleven nine five". At this point, the Governor stated that he "candidly was asking us why we offered him a price that was higher than the price we recently offered to Van Camp". We then told him in terms that could leave no misunderstanding that our current price to both Van Camp and Star Kist is $.1195 per gallon and that at no time was either of the two fishing companies offered a price less than that and furthermore we were able to offer them this price in exchange for their renewing our products contracts. The Governor then stated that he was told by Van Camp (he then changed this to it could have been Van Camp or maybe it was Star Kist) that Standard Oil had offered them a price of "eleven five" and that the notes he had of his conversation with the fishing company which were in the other room would bear him out. However, he said that it was certainly not necessary for him to refer to his notes with our assurance that the fishing companies are not receiving a price of "eleven five".

At this point, we informed the Governor that the price of $.1195 we offered to the fishing companies and the GAS was for the purpose of signing long term contracts. We stated we had negotiated contracts with the fishing companies and they were receiving the $.1195 price. However, because we prefer not to charge the GAS more than we charge the fishing companies, we are effective immediately reducing his price for Samoa Diesel Fuel Special for the power plant by $.02 per gallon or to $.1195 per gallon and that we are making such a reduction without benefit of a contract and the reduction will be retroactive to July 1, 1965.

The Governor seemed sincerely appreciative of our price reduction and asked "can I make an announcement of this new price". We said by all means as the reduction is as we had just stated.

The Governor stated that there was really nothing further that we could do towards negotiating a contract until such time as he has reviewed the offers he referred to at the beginning of our conversation. He did state that it is quite possible nothing may come of them as they may be withdrawn. However, he very emphatically stated that if any other company comes in with a better offer than ours, he will certainly be buying from them, "tomorrow", possibly.

In closing, we asked the Governor that in view of the $.02 per gallon reduction retroactive to July 1, 1965, would he anticipate that any electricity rate reduction could be passed on to the consumers. The Governor stated that he hopes so but it is still too early to tell as his accounting study of electricity costs has not been completed.

As we were leaving, we told the Governor that he would no doubt be hearing from us shortly regarding our bulk plant site lease as it was necessary to and our intention to exercise our next 10-year option on the site. The Governor unhesitatingly stated "Oh, yes, that's right, we do have some negotiating on that, don't we". Nothing more was said regarding our plant site lease but it was apparent that the Governor was well versed with the terms of our lease.

The original—unsigned—Letter Agreement dated October 14, 1965, was left with Governor Lee for his information but no copies of the latest proposed contract were given him.

In the writer's experience since being on this assignment, this is the longest uninterrupted interview we have had with the Governor. He was certainly in an amiable mood and stated several times that he was very candidly expressing his current position. Several efforts were made to determine the exact amount that our offer was being "shaded", however, in each case, although the Governor did not become angry, he would not divulge the exact amount. In our opinion, if the Governor was working under the impression that Van Camp was being supplied at $.115, he may have been assuming that this price might be available to him from some other supplier.

At this time, the Governor is absolutely firm in his refusal to sign a contract until he has evaluated other offers. In our opinion, all we can do at this time is to be prepared to move very rapidly with a lower price if we are given the opportunity to do so, or to offer a price of $.115 during our next interview with the hope of stopping any further negotiations with other companies and obtaining a signed contract.

D. D. Collins

cc: Mr. W. K. Peonce
Mr. C. T. Luscombe

ADDENDUM B

United States v. *Standard Oil Company of California*
N.D. Cal., Civ. No. 522334-SC

Deposition of William R. McCook, March 23, 1971
pages 130-131, 138-140
References:

Identification in deposition	Appellant's Appendix page:
DDX-169	76
letter of August 13	79-80
DDX-138	51

Direct Examination by Mr. Klitguard:

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* * * * *

Q Did you ever get any response to this letter from the governor?

A I think I got a letter from him—no, I don't know if I did or not.

Q Did you get a response from anyone connected with the government of American Samoa?

A I don't remember if I did or not. It seems like something came in.

Q Directing your attention to a letter previously marked DDX 169—well, which is a letter dated August 25, 1965, from Mr. Turnbull to Mr. Shaw, I will ask you if you have seen a copy of this letter before.

A I probably have, I don't remember it.

Q Let me go back for just a minute, Mr. McCook. You said in connection with this August 13th letter that it seemed to you that something came in. I am asking about your response. Do you recall what that was?

A No, I don't.

Q Was it a written document or writing of some kind, a letter?

A I don't recall.

Q Have you looked through your files to see if you have any response?

A Yes.

Q And you don't?

A No, not that I can remember.

Could I go off the record here?

(Whereupon a discussion ensued off the record.)

MR. KLITGAARD: Back on the record.

Q Directing your attention, Mr. McCook, to DDX 169, which is the August 25th letter you have here in front of you, in the first paragraph do you see the statement that Mr. Turnbull had rounded up the fish companies and that they were waiting for the governor to come out here? Do you know if there was a meeting between Mr. Turnbull and the governor after your letter concerning this proposal that you made?

A I think there was. I think that is when I was in Montana and missed it.

Q Do you recall where the meeting was held?

A In Los Angeles some place.

Q Did Mr. Turnbull or anyone report who was present?

A They may have, but I don't remember at all.

Q You don't recall if the canners were present?

A No.

Q Directing your attention to the second paragraph up from the bottom, the reference to Mr. Jerome O'Brien, is he one of the persons that you spoke with back East on your trip to Washington? Your refer to him as head of Union Bank Oil Department and a U.S. NATO oil expert.

A No.

Q Did you speak to Mr. Jerome O'Brien at any time?

A I don't remember. I may have.

Q No recollection?

A No.

Q Directing your attention now to a document previously marked Exhibit 138, which is a letter dated November 15, 1965, from Mr. Turnbull to Governor Lee, I will ask you if you have seen a copy of this document before.

A I may have, but I don't recall.

Q Do you see the third paragraph down, which refers to, "Our agreement with Summit is in effect"?

A Yes.

Q Did you have a written agreement at this point with Summit?

A I don't remember having it, no.

Q Was the agreement oral, then, with Summit?

A Possibly.

Q Let me cover something just with regard to Mr. Shaw, and maybe I've done it before, but I'll cover it now. Did you at any time have any direct dealings with Mr. Shaw, Summit, Oceanic, or any of the Shaw companies?

A No. I think we did cover that a couple of times.

Q Now, what happened after November 15, 1965? Did you make any further proposals to Governor Lee or to GAS for petroleum supply?

A Do you have any records of it here?

Q We have no documents past that date from you.

A If they are not in these files, I evidently did not.

Q Did Mr. Turnbull or anybody ever tell you what happened to your proposal after this date of November 15th?

A Of course they have.

Q What happened?

A Standard Oil lowered the prices and that was the end of our deal—below what we could deliver eventually.

Q The prices were lowered in July of '64.

A I'm sorry. They weren't. Some small segments were.

Q They were lowered with respect to the fishing fleet?

A That's correct.

Q In July of '65; is that correct?

A Yes. Then they started going down on all, as I recall. The airlines were lowered and the diesel fuel for the city.

Q The power plant was lowered?

A Yes, it was lowered, and even the general gasoline prices on the island were lowered, it was my understanding.

Q Who told you that?

A Again, I would assume it had to come from Mr. Turnbull.

Q Did anyone in the canneries or GAS tell you that all these other prices were lowered?

A I didn't visit with them about it.

Q Did you see by how much Standard's prices were lowered?

A No, but it was considerable.

Q Did you know that the final price in 1965, following the price reduction to the government and to the fishing fleet, was 11.95 per gallon for diesel fuel for the fishing fleet?

A No.

Q Did you know that the price for aviation fuel, jet fuel, had been reduced at Governor Lee's agreement to remove the tax on fuel?

A By only that amount, just the tax.

Q There had been a reduction of the tax, plus the price off. Did you know that?

A Well, I knew that the price went down, yes.

Q Did you know how much the price went down?

A I assume it went down three cents, whatever you knocked off it.

Q You are talking about jet fuel now?

A Yes.

Q Did you personally check on what price Standard charged?

A I didn't personally, no.

Q Did Turnbull?

A I'm sure he did.

Q Was the only reason that you abandoned this is that Standard reduced the prices?

A Because we were shot out of the saddle.

Q Explain that.

A We couldn't see any future. We couldn't sell it for as low a price as it appeared to be sold.

Q In your letter to Governor Lee on August 13th you quote a price of 11.25 per gallon for the diesel fuel to the fishing fleet; correct?

A If that is what it says.

Q If Standard was quoting 11.95, wasn't your price lower than Standard's?

A What was it before that?

Q It was 13.95.

A It appears to me like we were fighting a losing battle because that was the first of what could have been several reductions in price. Obviously, I'm in no position to buck Standard Oil, and when Standard Oil reduced their price it did take a lot of sting out of it and evidently the governor might have had some pressure brought to bear. I don't know.

Q Pressure by whom?

A I have no idea, but obviously we weren't in a position to come in on a thin margin and then on a brand new venture have to maybe take another one or two price cuts.

Q Was it your thought that you could get a long-term contract to supply the government power plant?

A Yes.

Q At a specific price?

A Yes, the power plant we thought we could.

Q At a specific price?

A Yes.

Q And so, therefore, you had that business; is that correct?

A We would have had that.

Q Was that business, in your opinion, sufficient inducement for you to come into American Samoa?

A Not quite.

Q What other reasons?

A It was the backbone. There was no doubt about that.

Q In other words, if you got the power plant business, there would have been sufficient inducement for you to come into American Samoa?

A We would want a fair shot at the rest of the business. If we had a fair shot at the rest of the business and the power plant, we certainly would have gone.

Q Well, your price of 11.25 was lower than Standard's price, was it not?

A As I recall, there was some talk about some further reduction by Standard.

Q What talk was that?

A I don't really remember now.

Q Who told you that?

A It must have been Mr. Turnbull. He was doing all my chasing.

Q Did Mr. Turnbull tell you upon what he based that statement about a further reduction by Standard?

A No. I'm not even sure that was the statement made.

Q In other words, you are not sure whether that statement was ever made?

A Not really.

* * * * *

CROSS EXAMINATION

By Mr. Hollander:

Q I think when you started your testimony you said that prices were pretty high in American Samoa and this was one of the inducements for you to get interested in the market; is that correct?

A That is correct.

Q Were they the so-called prices, Standard prices, you were talking about?

A Yes, they were the only people over there.

Q You said also the market could use some competition, you decided; is that correct?

A That's right.

Q Why did you think that?

A Well, just that the prices were awfully high and we felt that competition might stimulate a little growth.

Q If you had gotten a part of the market, as you suggested, do you think you could have made a profit on your investment?

Mr. Klitgaard: I object to the question on the ground it is vague and speculative and calls for matters beyond the witness' knowledge. He hasn't testified to figures, whether it was 50 per cent, 100 per cent or 30 per cent, or what it was.

The Witness: Well, let me just say this, that had I gone ahead with the investment, I certainly would have done it with a profit in mind, and I do know that having just the fuel for the generating plant was not enough to get me too excited to go over

there and make a big investment, having to face some awful—what could be some price cuts and a price war when you are opening up a new business. It is not very inducive to a newcomer.

Q By Mr. Hollander: Did you discuss the possibility that Standard might be in a price war with you?

A Absolutely.

Q Why did you think they could undercut your price?

Mr. Klitgaard: Just a minute, Counsel. There has been no statement here by the witness that Standard could undercut his prices. He doesn't know what Standard could or could not do.

Q By Mr. Hollander: Answer the question.

A Yes.

Q Did it have anything to do with the fact they had the only storage facility on the island?

A That's right.

Q Was that discussed?

Mr. Klitgaard: I am going to object. Was that discussed with—

Q By Mr. Hollander: With anyone in your consideration in going into the market?

A They had the only storage facility?

Q Yes.

A Well, actually, that was more or less the exciting part about it, because we could build our own facility.

Q Did the fact they had the only facility have anything to do with your making up your mind about it? Did the fact that they had a lease on the only storage facility in Samoa have anything to do in your mind with the threat of a price war by Standard? If so, why?

MR. KLITGAARD: I am going to object to that question because there has been no evidence of a threat of a price war by Standard. Mr. McCook just stated his purpose in coming was to provide competition.

MR. HOLLANDER: Let the witness answer. You know he has a limited time.

MR. KLITGAARD: I am perfectly willing to continue the deposition, Mr. Hollander.

MR. HOLLANDER: Fine. Thank you very much.

Q Go ahead.

A The fact they had the only storage facility, obviously, if you could not provide your own, would limit you. You'd have no chance to do any business over there. But, assuming we built our own facility, even with our own facility I would be reluctant to go in and try to start in business against Standard Oil unless I had some pretty long—or some pretty solid contracts, knowing they could cut the prices and live for many, many years beyond our death, and not face the overall picture.

Q Was there any discussion with anyone at all there about the through put charge that Standard had, compared with the through put charge you would have to have if you put up your own facility?

A There probably was, but I sure don't remember any numbers about anything.

* * * * *

ADDENDUM C

William R. McCook v. *Standard Oil Company of California*
C.D. Cal., Civ. No. CU 74 1190 HP

pages 616, 618-623 } Deposition of William R. McCook, February 11, 1976
References:

Identification in Deposition	Appellant's Appendix page:
Document 241—Letter of August 13, 1965	79-80
Letter of August 25, 1965	76
Document 276	200
Document 246—Letter of October 5, 1965	189

* * * * *

Q Do you recall whether during the week of August 25, 1965, Mr. Turnbull received a telegram from Governor Lee—

A Well, I—

Q —concerning a proposal?

A It seemed to me there was a telegram. I know there was a phone message that I called Governor Lee around that period of time, but I frankly don't recall talking to him even. Isn't that awful? It's embarassing.

* * * * *

Mr. Klitgaard: I don't recall seeing any telegram after August 13, 1965, either. That is why I am asking the question.

Mr. Palmieri: I don't remember any.

The Witness: I think the only relationship to correspondence was a phone number that I had on a packet to Governor Lee to phone him back in Washington at his temporary office while he was there during that month, which I did, but I don't recall the conversation.

Mr. Klitgaard: Maybe we can clarify that.

Mr. Palmieri: That is a different packet. That would be his documents.

The Witness: Right there.

Mr. Klitgaard: Q I am handing you Document 276. On this there appears to be a telephone number for Governor Lee.

A That's correct.

Q Is this the telephone number you wrote on there when you tried to contact Governor Lee sometime after you sent your August 13th letter?

A Yes.

Q Would this be before the week of August 25th or during that week?

A I wouldn't—that is hard to say, very hard to say.

Mr. Klitgaard: Because I am wondering whether this is what is referred to as the telegram or not.

Mr. Palmieri: I just want to make the observation that I believe that is a Washington number.

The Witness: It is.

Mr. Palmieri: And which I think might shed light on the date.

The Witness: That was the number—that is where he was—where his office was in Washington when he was back there. He shared an office with someone. When I called him, I wouldn't have any idea.

Mr. Klitgaard: Q Would you have called him within a short time after the August 13th letter?

A It would have been then and November.

Q I would like to show you your October 5th letter, which is Document 246. Do you have Document 246 in front of you?

A Yes.

Q Do you see the reference in the first paragraph to a discussion on the telephone?

A Yes.

Q Was that a discussion with Governor Lee in Washington?

A Yes.

Q And was that discussion in connection with this telephone number that you wrote on 276?

A I am sure it was.

Q So the telephone conversation with Governor Lee occurred sometime before October 5, 1965?

A Probably just a day or two before, I would guess, or I am not sure when, but there are—

MR. PALMIERI: You know we have gone through this before, but while you are on the subject, I am going to get you to another telephone conversation which is earlier.

MR. KLITGAARD: Q I would like to direct your attention to Document 241, which is a letter dated August 25, 1965 and which refers to a telephone conversation between you and Governor Lee three days after you sent your letter dated August 13th. Do you see that?

A Yes.

Q Do you recall talking to Governor Lee on the telephone three days after you sent your letter of August 13th?

A No, I don't.

MR. STOUT: Excuse me. I am going to object to the characterization. It says a phone call for appointment with the governor. That doesn't necessarily mean—

MR. PALMIERI: Yes.

MR. KLITGAARD: I will withdraw it.

Q Do you recall calling Governor Lee's office for an appointment with the governor three days after you sent your letter dated August 13, 1965?

A I do recall making an appointment with him when he came back to Los Angeles and we were to meet.

Q Did you talk to the governor directly in making that appointment, or did you talk to his office?

A No. I talked directly to him, I am sure.

Q And was this telephone number that we just looked at here on 276 in connection with that meeting for an appointment?

A I would have to assume it was.

Q Did Governor Lee actually meet with you in Los Angeles?

A No.

Q And then was there some telegram concerning that meeting that was sent to Mr. Turnbull or to you?

A Evidently there was no telegram.

Q I am just asking you for your recollection.

A Well, evidently there was none. I don't recall any.

Q You don't recall any telegram concerning that meeting?

A No.

Q I want to look at 276—

MR. PALMIERI: 297 is the same thing.

MR. KLITGAARD: Q Did you put Governor Lee's telephone number on there before the time that you first called him?

A Well, I'm sure I did. I wouldn't have known it otherwise.

Mr. Palmieri: Wait a moment. He said the first time. There are two calls.

The Witness: Before the first time and only time I called him, you mean?

Mr. Klitgaard: Q You called his office for an appointment, and I take it that was the first time you called him; correct?

A (No response.)

Q Do you want to take a look at the August 25th letter?

Mr. Palmieri: Well, but—

Mr. Klitgaard: Let me just ask the witness.

Mr. Palmieri: The trouble is, you are directing him to two—

Mr. Klitgaard: Yes, and the witness has testified that he called Governor Lee on two occasions—one, to make an appointment, and one in connection with this October 5th letter.

The Witness: Well, I don't recall calling him twice, but maybe I did.

Mr. Klitgaard: Q Was Mr. Turnbull wrong in 241 then when he said that Mr. McCook followed it up with a phone call for an appointment with the governor in Washington?

A You are talking about 11 years ago. I am sure —I know I called him. The conversation I don't recall except that we were having a—tentatively setting up a meeting for—

Q Let's go back. After you sent your August 13th letter to Governor Lee, did you call his office for an appointment to meet him in Los Angeles?

A Yes.

Q And then sometime later after that, did you call Governor Lee again to discuss your supplier's financial strength, which is reflected in this letter No. 246?

A Well, it is possible. It is very possible.

Q In any event, you have a clear recollection of calling Governor Lee the first time to set up the appointment?

A No, I don't have a clear recollection of it at all.

Q Do you have a clear recollection of calling Governor Lee to discuss your supplier's financial strength?

A Not—I do not. Evidently I did, because I referred to it in my letter.

Q Referring to your letter of October 5th?

A Yes.

Q Do you know of any reason why Mr. Turnbull would tell Mr. Shaw that you would call Governor Lee for an appointment if that were not the case?

A No, I don't. I wonder if he could have called him. Is that possible?

Q In a letter from Mr. Turnbull to Mr. Shaw he refers to you calling him. Do you see that?

A Yes.

ADDENDUM D

United States v. *Standard Oil Company of California*
N.D. Cal., Civ. No. 52334-SC

GX-72

GX-139

GX-156

GX-157

GX-207

GX-72

SF 7/1/65 337P /HFJW/

NEW YORK—SPOONER

9858 REURTEL 2549 RE STARKIST AND VAN-KAMP. CONTENTS OF YOUR WIRE DISCUSSED BY A. KELSEY WITH MR. ANTHONY NIZETICH, ASSISTANT TO STARKIST VICE-PRESIDENT, ADMINISTRATION. MR. EVITCH HAD PREVIOUSLY ASKED THAT IN HIS ABSENCE WE TALK~~E~~ TO MR. NIZETICH ABOUT SAMOA. MR. NIZETICH SAID STARKIST HAS NOT PRESENTLY NEGOTIATED LONG-TERM CONTRACT NOR DO THEY INTEND TO SIGN ONE, HE ADDED THAT THEY CONTINUED TO APPROACH STANDARD OF CALIFORNIA FOR BETTER PRICE. HE WAS IN SAN FRANCISCO THE WEEK OF 6/7/65.
TO 6/11/65 TALKING WITH STANDARD OF CALIFORNIA WHO SAID THEY WERE STILL ANALYSING THE SITUATION.
STARKISTS ONLY CONTRACT WITH STANDARD IS FOR THEIR PROCESSING PLANT REQUIREMENT. THIS CONTRACT IS IN EITHER ITS 3RD OR 4TH YEAR OF TEN YEARS. STARKIST'S OBLIGATION IS FOR 60 PCT OF THEIR REQUIREMENTS, NO EXISTING CONTRACT FOR DIESEL FUELS. ON 6/17/65 CONTENTS OF YOUR WIRE CONVEYED TO MR. BEAMON, VAN-KAMP VICE-PRESI-

DENT, PURCHASING, WHO AGREED NOT TO SIGN ANY CONTRACTS PENDING OUTCOME SHELL PACIFIC ISLANDS LTD. NEGOTIATIONS.

AN INTERESTING POINT IN ALL THESE CONVERSATIONS WAS THAT GOVERNOR LEE WHO WAS IN LONG BEACH AREA WEEK OF 6/7/65 FOR JOINT MEETING WOULD NOT MENTION ANY CONTRACT NEGOTIATIONS INVOLVING SHELL OR ANYONE ELSE.

MR. NIZETICH RELATED THAT HE HAD A CONVERSATION WITH MR. BOGDANOVICH, STARKIST CO-ORDINATOR OF SOUTH PACIFIC, APPROXIMATELY FOUR WEEKS AGO. MR. BOGDANOVICH WHO IS STARKIST'S PRESIDENT'S COUSIN, IS STILL IN PAGO-PAGO AND STATED THERE WERE CONVERSATIONS ABOUT THE LOCAL NEGOTIATIONS. PLEASE KEEP US ADVISED.

J. G. FULLER

Line 7 last word / 6/7/65 /

GX-139

LA 10-2-64 850 AM APR

8730 N Y—S GOLDIN

CC—R W CARR—N Y

2498 SF—J H HALL

CC—SF—J G FULLER

WE HAVE INQUIRY FROM GOOD FRIENDS IN THE TUNA PACKING BUSINESS I.E., CHICKEN OF SEA AND STARKIST, IN OUR INTEREST AND ABILITY TO PROVIDE STORAGE, AND MARINE DOCKS FOR 6,000,000 GALLONS DIESEL FUEL PER YEAR AT PAGO PAGO, AMERICAN SAMOA. STANDARD OIL OF CALIFORNIA PRESENTLY ONLY SUPPLIER AND HAVE AS IS THEIR CUSTOM WHEN THERE IS NO COMPETITION BEEN PROVIDING QUESTIONABLE QUALITY FUEL AT EXCESSIVE PRICES/14.95 CPG/. FUEL IS BEING CONSUMED BY JAPANESE TUNA CLIPPERS. JAPANESE FISHERMEN COMPLAINING ABOUT BOTH QUALITY AND PRICE AND ADVISE VAN CAMPS-CHICKEN OF SEA THEY SHOULD BE ABLE TO BUY BETTER QUALITY AT 1½ CPG LESS THAN THEY ARE PRESENTLY PAYING FOR STANDARD OF CALIFORNIA FUEL. WOULD YOU PLEASE ADVISE SOONEST ASSOCIATES INTEREST IN SERVING THESE TUNA

CLIPPERS AT PAGO PAGO. INCIDENTALLY, YOU MAY RECALL SOME FOUR OR FIVE YEARS AGO THERE WAS SOME CONSIDERATION OF EXTENDING THE HONOLULU DIVISION BOUNDARY TO INCLUDE THE AMERICAN FLAG PART OF SAMOA. MAYBE THIS WOULD BE AN OPPORTUNE TIME TO REVIEW THE DESIRABILITY OF U.S. SHELL SUPPLYING AMERICAN FLAG ISLANDS—I.E., HAWAII, PURTO RICO AND AMERICAN SAMOA.

HYNES

GX-156

NY 6-10-65 1.10 PM IJB

SF FULLER

2520 REURTT 8929 / HFJW / RE STARKIST AND VAN CAMP SHELL IS PRESENTLY UNABLE SUPPLY AMERICAN SAMOA.

F. W. SPOONER

June 10, 1965

GX-157

NY 7/16/65 1045AM IJB

SF-FULLER

3496 REURTT 157 HFJW RE STARKIST AND VAN CAMP. WE ARE NOW ADVISED SHELL WILL NOT BE ENTERING AMERICAN SAMOA MARKET. THEREFORE PLEASE ADVISE THESE CUSTOMERS.

F. W. SPOONER

GX-207

To: L.A. Div. Ind. Products

From: R. W. Bowyer

Date: January 28, 1965

Subject: Van Camp Sea Food
International Prospects

Referring to our D-20 correspondence of 12-7-64 your TWX 487 of 1-20-65 about subject.

We contacted Mr. David Hyams on 1-6-65 who indicated no changes or additions to previous conversations regarding India or a proposed plant in the general location of the Marianas Island Group. Further that he would depart for Africa & South America around the 11th of January.

Mr. Hyams did mention that a special executive meeting was going to be held specifically to discuss diesel oil price in Western Samoa & the renewal of an expiring contract with Standard Oil Co.; also that he suggested I contact Mr. Don Doran regarding this subject.

Mr. Don Doran is the new assistant to Van Camp's Vice Pres. of Production and was formerly the manager of Van Camp's operation in Pago Pago.

Contact with Mr. Doran made important points in conversation follow:

1. Renewal of contract with Standard Oil Co. questionable.

2. A ten year products contract written in June 1956 expires June this year. Mr. Doran not completely familiar with contract provisions; we assume contains 30 day renewal clause.
3. Mr. Brian Pitts, representing Royal Dutch Shell group out of either the Fiji Islands or Australia personally talked with Mr. Doran regarding this subject seven months ago.
4. Mr. Pitts secured a sample of Standard's diesel and a lab analysis was performed.
5. The fuel is similar to the Shell diesel fuel presently being sold to Japanese fishing vessels in the Fiji Islands.
6. Total available potential all fuel in American Samoa follow:
   - (a) 7 million gallons/yr. fishing fleet fuels—(both Van Camp & Starkist).
   - (b) 2 million gallons/year. Diesel generator island electrical service.
   - (c) 2 million gallons/year premium diesel fuel —U.S.C. unknown.
   - (d) Jet fuels for airlines—we understand Pan American has two flights departing daily. Approximately 2700 miles to Hawaiian Islands.

We also understand that Van Camp's V.P. Purchasing * personally contacted someone locally with Shell regarding above.

(* Mr. Robert Berman)

In conversation with A. T. Kelsey we learned Shell individual contacted was Mr. A. P. Hynes.

Fuels have been barged from L.A. Harbor to Hawaii or approximately 2200 miles. This being the case it might be economical to load from Hawaii & transport to Western Samoa. This of course is a T & S problem since Standard owns the refinery in the Hawaiian Islands.

Because price is the controlling factor & Standard is charging the fleets in Samoa around 15.0 cpg the best approach might be get supply somewhere south of the equator.

In any event please advise the concerned parties that we will be most happy to assist them in their solicitation & negotiation.

/s/ R. W. Bowyer

Carbon Copy to
[Illegible]

ADDENDUM E

United States v. *Standard Oil Company of California*
N.D. Cal., Civ. No. 52334-SC

GX-143

GX-158

GX-210

GX-213

GX-143

MEMORANDUM

Apr. 7 SGUSB

Honolulu, Hawaii
March 29, 1966

COMPETITIVE ACTIVITY SAMOA

MR. A. E. STEVENS
San Francisco

Recently a Shell Oil Company representative visited American Samoa. We are not able to report of his activities during this visit. We have been informed from other sources that Mobil is definitely interested in the American Samoa petroleum market.

It would seem to us that the three companies Governor Lee has asked for proposals in the recent past would be Time, Shell and Mobil.

We will watch this competitive situation very closely and will keep you advised of developments.

/s/ W. H. Ditler
W. H. DITLER

CB:hh

GX-158

R. K. Gosper

Shell Corner
155 William Street
Melbourne, Vic., 3000

11th November, 1971

Governor John M. Haydon,
Office of the Governor,
PAGO PAGO. American Samoa,

Dear Governor Haydon,

I regret since the receipt of your letter of the 17th August that I have almost continually been out of Australia, as advised by my Development Manager Lionel Bevis in his communication of the 27th of September. Since returning, and particularly in view of your comment in the second paragraph of your letter indicating that you did not wish to issue Government tender bids unless we were interested in the broad construction plan involving market entry as previously presented, I arranged yet again to complete an in-depth economic evaluation of the alternative methods of establishing ourselves in American Samoa.

The alternative studies included—

a) A review of entry along the lines outlined to you in our first formal submission in May, 1970 involving independent fuel discharge wharf, bulk storage facilities for a full range of marketable products, retail development and participation in the aviation programme with SOCAL.

b) Partial entry involving independent wharf discharge facilities, product storage limited to potential fuel supplies for power station, fishing industry and retail development and a possible joint supply aviation arrangement with SOCAL as first phase; with a second phase in five years aimed at giving us full representation and operational independence.

c) A programme entirely limited to supply of fuel on a CIF basis to the power house in anticipation of securing this Government tender against existing prices; a second phase to follow enabling us a broader basis for competitive representation.

d) A negotiated joint supply programme with SOCAL.

Regrettably with the exception of alternative (d), each of the studies proved unviable, even allowing for the fact that finance for establishing facilities in the Territory is not so readily available now as it was 12 months ago. Once again the main inhibitors were the high cost of capital investment in competing against SOCAL's extremely low cost lease arrangements, SOCAL's shorter supply line and the price levels you currently enjoy.

In the absence of tax benefits, the only way in which we could expect to submit any reasonable proposal to you at this stage would have been on the basis of marginally higher prices than are current for

Government purchases in American Samoa, and this would have been hardly satisfactory to you. You will recall that the original rejection of our tax incentive submission August, 1970 upon which our proposal for entry depended, resulted from your Board's concern for an initial loss of revenue.

The only solution therefore to our continuing effort to put forward an economically acceptable proposition to you at this stage was to reopen negotiations with Standard Oil of California on the subject of a possible joint supply programme, which you will recall from my letter of the 17th of March, 1971 was the then preferred course. Whilst at that time we were compromised because of their involvement in the Government's Anti-trust suit relating to their petroleum marketing activities in American Samoa, we had recently learned that the suit had been dismissed by the U.S. District Judge in San Francisco for apparent lack of jurisdiction on a technical point, namely, that American Samoa "as an unorganised possession" was not a "Territory" within the meaning of such term in Section 3 of the Sherman Antitrust Act.

Not anticipating that the Justice Department would exercise the right to appeal this decision to the U.S. Supreme Court, I obtained my London principal's agreement to arrange for myself to have discussions in San Francisco with Standard Oil on the matter of a joint entry programme. In the expectancy that these talks would form the basis for a sensible arrangement, it was then my intention to come back through Pago Pago to seek your approval as originally requested by you.

Unfortunately, this intended meeting was completely compromised by the fact that we were advised a meeting was inappropriate because the U.S. Government had decided to exercise its right of appeal to the U.S. Supreme Court on the ruling handed down by the San Francisco District Judge. Understandably SOCAL have once again found themselves in a position of not being able to negotiate with us.

I have no alternative, Governor Haydon, as a result of the above to advise you that at this stage we are not in a position to invest in American Samoa and believe that the earliest opportunity for review will be dependent upon termination of the Anti-trust suit against SOCAL, after which we would expect to be in a position to negotiate with them.

There has been no rejection to date of a joint supply concept by them on any other basis than the constraint of the current Anti-trust suit. I am particularly sensitive to the sustained efforts on the part of your Government and certain officers in working towards a possible means of enabling our entrance as oil marketers in the Territory; indeed we have ourselves expended considerable effort and finance in seeking a solution. However, I was not prepared to finally request the issue of Government tender bids until we had again reviewed our homework to see whether the numbers would work. I also firmly believe that if Standard Oil had not continued to be involved in a legal matter concerning the Territory, by now we may well have been on the way to establishing ourselves in American Samoa and introducing the desirable benefits of a competitive petroleum market in the Territory.

In concluding, may we assume that at a time in the future when negotiations with Standard Oil are possible and prove effective, that you will be acceptable to us re-opening talks with you on such matters as wharfage site and land for our facilities.

Thank you again for your continued co-operation.
Kind regards,

/s/ Kevin C

GX-210

FORMAL REQUEST TO THE GOVERNOR BY SHELL COMPANY (PACIFIC ISLANDS)

LIMITED TO ENTER AMERICAN SAMOA

Wednesday 6th May, 1970

L. T. Frogatt
Attorney for:—

SHELL COMPANY (PACIFIC ISLANDS) LIMITED.

Shell Corner
155 William Street
Melbourne, Vic. 3001

RKG:GM

4th May, 1970 CONFIDENTIAL

Governor John M. Haydon,
Office of the Governor,
PAGO PAGO. American Samoa.

Dear Governor Haydon,

FORMAL REQUEST TO ENTER AMERICAN SAMOA

I have pleasure in submitting a formal proposal, on behalf of Shell Company (Pacific Islands) Limited, seeking your approval to enter American Samoa for the purpose of marketing petroleum products.

Our capacity to submit the following proposal has resulted from exchanges of communication and in particular I refer to our letter of the 22nd December, 1969 and your reply of 8th January, 1970, and subsequent discussions during our visitations to Pago Pago in which you and your staff have given such considerable assistance and encouragement to the project. Integral to our proposal is our capacity to enter into lease of those packages of land described in the agreement between the Government of American Samoa and Shell Company (Pacific Islands) Limited granting "first right of refusal" and entered into on the seventeenth day of February 1970. Whilst this agreement is due to expire on the 16th May, we would also presume its continuance beyond this date if a decision on our proposal had not been reached by that time, until such time as we received your acceptance or otherwise. We would further seek your agreement to our rights to acquire additional land inclusive of that certain parcel of land at Satala whose ownership is disputed between the Grove Family and the Government of American Samoa and the land lying further west which we understand to be privately owned by members of the Grove Family. Our reason for requesting this right of acquisition is to ensure we have the capacity for expansion as the Territory needs for petroleum products increase. We would also seek your agreement in principle to acquire by lease, or otherwise, any other area of land for the conduct of our business in the Territory such as is required for the establishment of retail or industrial outlets providing of course that such applications meet with your approval.

The subject of annual rental has been discussed and appropriate rental rates will be negotiated concurrent with the submission of this proposal. We would also seek your clarification on the general lease conditions which may apply to the areas under option.

Proposed Timetable for Entry

Subject to your agreement we would plan to commence the construction of our main storage and wharf facilities in Pago Pago Harbour, and our Aviation storage and servicing facilities at Tafuna, in November of this year, 1970, with a view to commencing the marketing of ground products by the end of the second quarter of 1971. This programme represents a deferrment of approximately six months from the original indications given you at discussions late last year, but results from the up-start time we would require, and the fact that we cannot anticipate to be in a position to bid competitively for American Airlines business, which continues to be a critical element of the economics of our entry, before December 1971. This point is elaborated on further in the sub section under Airline Business. A further qualification on this timing programme could be your decision on future supplies for fuel needs in respect of your Power House complex, bearing in mind our awareness of a survey completed by Mr. C.T. Crowley of the Rural Electrification Authority of the Department of Interior of the United States on which we also later comment.

CAPITAL INVESTMENT

We would plan to invest capital to the value of US $1.5 million along the following lines:—

(a) Main storage installation comprising the following tankage and product handling facilities: 1 x 2,400 ton tank for Aviation Turbine Fuel 1 x 4,600 ton tank for "Samoan" Diesel Fuel 1 x 520 ton tank for Motor Gasoline 1 x 520 ton tank for Distillate T-head jetty and mooring dolphins for general purpose tanker (approximately 22,000 dead weight tons) discharge.	US$1,032,000
(b) Airfield storage and hydrant dispensing system at Tafuna Airport	US$ 110,000
(c) Retail and Industrial Outlet Development	US$ 168,000
(d) Transport and Distribution	US$ 144,000
(e) Accommodation	US$ 58,000
	US$1,512,000

Construction Concept

As previously discussed, we would propose to develop this project in conjunction with your Public Works Department using their services in respect of civil and building works. We would plan to employ a contractor to handle the mechanical and general management aspects of the development with Shell to provide a Project Superintendent for co-ordination and supervision. This Superintendent would be on site during the whole of the programme to ensure that adequate liaison was maintained with all interested parties, that works were completed in accordance with our normally accepted practices and that financial commitments were met.

Integral and coinciding with our submission we have arranged for our Projects Manager Mr. L.R. Kinsley to be present in Pago Pago to enable follow up discussions with your Director of Public Works and in particular Mr. W. Keener with whom earlier exchanges were held. We would hope to confirm during these discussions that:—

(a) Our cost projections incorporating P.W.D. are realistic and consistent with previous communications.

(b) Our concept of the tanker discharge berth and fishing fleet bunkering facilities are consistent and follow previously considered cost and erection methods.

(c) The layout for the main storage facility meets with your agreement and is consistent with P.W.D. drawings of the area.

In proceeding with the erection of storage and hydrant facilities at the airport along the lines previously negotiated, it is important for us again in discussions with your P.W.D. staff to:—

(a) Outline our storage and supply concept.

(b) Ensure our use of separate hydrant trench and outlets from SOCAL.

(c) Ensure that our planning is consistent with the Territory long term airport planning which we know to be currently under study.

Arising out of the above we would proceed to forward final drawings and detailed plans, in line with the examples submitted for discussion with this proposal, to your Public Works Department. These plans will relate to the main storage area, the wharf and distribution area, and the aviation storage and servicing requirements at Tafuna Airport.

Distribution Concept

The storage, packing, handling and distribution of products will initially locate on that land adjacent to the wharf discharge facility but in due course as conjoint general wharf expansion development takes place, our relocation would need to be integrated with the cost of such a programme and appropriate land such as that described in paragraph one would need to have been satisfactorily acquired.

Our method of supply and distribution is planned to make maximum use of pipelines to remove road usage pressures and is as follows:—

(a) Road vehicles for Retail and Industrial outlets.

(b) Road bridger for supplies to Tafuna Airport.

(c) Use of pipelines for supplies to the fishing fleet.

(d) Use of pipelines where feasible for canning industry needs.

(e) Use of pipelines for general purpose marine bunkering.

(f) Potential use of pipeline in respect of Electricity generating plant business.

GOVERNMENT ASSISTANCE

During the course of our negotiations with you and your staff, we have openly revealed our main concerns qualifying acceptable economics to our potential entry. These related to:—

(a) The potential land restraints for establishing our facilities.

(b) The need to establish separate berth and bunkering facilities for product discharge and fishing fleet bunkers bearing in mind the latter's high percentage of the total oil market potential.

(c) The naturally well entrenched advantages SOCAL enjoy as sole marketer in American Samoa.

(d) The importance of our probable gain of a major airlines business, once again because of the significance of aviation fuels in the Terri-

tory which together with the fishing business, aggregates almost ninety percent of your total petroleum market.

As the direct result of your efforts and co-operation you provided us with a solution to our land and wharf facilities. Again your receptiveness and to an extent, the coincidence of an anti trust suit against SOCAL, have combined to pave the way for our market entry proposal whilst your readiness to communicate directly with existing and potential airline operators followed on your realization of the significance of this trade. In full acknowledgement of these facts, our proposal seeks as integral components, your agreement to the following:—

(a) *A tax holiday* from the opening of our business in 1971 for a period of seven (7) years.

OR

A tax holiday for five (5) years on the basis that any accumulated trading loss still in existence at the completion of such five year period could continue to be carried forward for the purposes of tax considerations.

Our request in this regard is submitted under the terms of your Industrial Incentive Act Title XXVI, but it is in excess of the five (5) year consideration on which we exchanged communications during December and January. We are cognizant of potential tax accommodation for a period of up to ten years but in seeking a lesser consideration have tried to balance your Government's legislative commercial goodwill with our economic necessity.

(b) *An initial period of contract for supplies of Diesel Fuel to your Electric Power Complex* at an acceptable improved price to the current level to be negotiated, but in line with price quotes already made to R.E.A. on our behalf by A.P.C. in New York. We would be interested in jointly developing a pipeline and storage programme with the R.E.A. [GAS] for their fuel supplies and for our projected wharf facilities to be designed accordingly. Storage tankage might be considered on either R.E.A. or Shell's projected land.

This request is made as we understand the R.E.A. intend to call tenders for supplies, and we are concerned less the timing of our entry should preclude us from the initial supply contract period.

OR

Alternatively agreement to "split" this business on a 50/50 basis between SOCAL and SHELL at no worse than the current price for a period of two years from our opening of business in 1971 after which the Government would go to open tender for period contracts of a minimum one (1) year and a maximum

> three (3) years duration at least until the entrance of a third oil marketer.

OR

> An alternative, better preferred by the Government, but with the objective of providing us a tangible product incentive on entrance in that the Government is the Territory's largest single customer.

Our reason for making the above request rests on the fact that we are aware that American Airlines have awarded their initial supply contract for aviation fuels to SOCAL. Whilst we believe we may be better placed to tender for this business—and for that matter other airline trade—in 1972, we will be committing capital with no guarantees, but rather on commercial judgement and associated inherent risks.

In being prepared to make US $1.5 million available for investment in American Samoa my Board has underlined its concern for the sensitivity of our venture to airlines business and government trade. An assurance on the Electricity Power House fuel supplies and indeed other government business would compensate for, and lessen the commercial risk impact of our investment.

This request is not designed to restrain the Government from obtaining the best deal for its future fuel supplies nor is it intended with disregard to normal expected competitive activity or "Anti Trust" Legislation. We are in fact accepting all the normal risks of entry in respect of airline, fishing, canning, industrial and retail trade.

POLICY

Shell Company (Pacific Islands) Limited would register in American Samoa, as such and in line with the requirements of your Corporation Law Sec. 11, 0123, plan to employ the following policies:

(a) *Price*

> The fact that we have based our "entry programme" on anticipated economic assistance from your Government would indicate that our aim is to initially enter the market at no worse than equivalent prices to those currently experienced in the Territory. The only exception would be that earlier referred to in respect of your Power House requirements. In subsequent years we would anticipate that prices would find their appropriate levels arising out of normal oil industry competition in American Samoa.

(b) *Products*

> We would aim to market a wide range of fuels and lubricants distributed in either bulk or packaged containers as supply and demand dictate. The quality of our products are of recognised international standards and at least the equivalent of the best produced by competitors in the Industry. There would be an educational and promotional programme associated with commencement of trading activity.

We would plan to introduce a range of agricultural chemicals during 1972.

(c) *Supply*

Our supply method will essentially represent an extension of the programme we have currently operating in the South West Pacific, in that our overseas tankers will originate from Singapore. Packed fuels, lubricants and chemicals may be supplied from Singapore, Australia or New Zealand depending on shipping advantages.

We would however seek your guidance and requirements on your preferred/required source of supplies for construction, materials, vehicles and any such equipment associated with our activities.

(d) *Customs*

Whilst we are naturally reasonably experienced in matters relating to customs and payments of duties etc., we wish to register that we would co-operate and comply with your requirements in this regard and again would welcome any guidelines you may wish to offer in this area. We have assumed excise duties as follows:

	US¢ per gallon
(1) Motor Gasoline	8.5
(2) Distillate	3.5
(3) Kerosine (household)	0.5
(4) Lubricants	15%

(e) *Standards*

We would implement standards of safety and quality control in respect of construction, distribution and products which currently meet recognised International standards and which we would expect to be in line with your local requirements.

TRADE

(a) *Retail*

We would propose establishing a retail network of outlets aimed at balancing our trade expectancy with the desirable limit of total Industry outlets in American Samoa. Our policy on sites and equipment will generally parallel the existing Industry pattern but in order to obtain some initial impact in this trade category, we would seek your agreement to lease "that triangular piece of land adjoining Utulei Motor Pool measuring 120 feet at the Motor Pool fence, 180 feet frontage to the main road, and 220 feet frontage of the secondary road branching from the main road opposite Burns Philp Utulei store" for the purpose of developing a major retail outlet. We would plan first class facilities for gasoline and oil sales as well as servicing and sale of appropriate motor vehicle spares.

We see the need to develop a retail image in line with the tourist development trends of the area and plans for this site would be submitted for your approval.

Additional retail outlets initially of a more moderate concept would be developed in association with appropriate local business concerns.

(b) *Aviation Business*

A substantial element of our projected investment relates to an expectancy of airline business. As indicated earlier we have not been successful, in an immediate sense, in gaining American Airlines business but are prepared to proceed in anticipation that we may place ourselves sufficiently competitively in 1972 to secure their business when it again becomes available for tender.

We would plan to install adequate storage for long term needs and install a separate line and hydrant system from SOCAL. However as mentioned earlier our planning pre-requires an up to the minute appreciation of projected airport layout and design modifications currently under study in American Samoa.

(c) *Fishing Industry*

We would plan to construct fuel outlets on our T wharf projection for the bunkering of fishing vessels. In view of the nature of this facility we would feel, at this stage of the wharf development, that the wharf facility should be limited to the discharge of overseas tankers and the bunkering of fishing fleet or other vessels. Depending on future development of the facility, priorities would no doubt require review.

The availability of this wharf for bunkering facilities would ease the pressures on the existing oil/bunker discharge wharf on the opposite side of the harbour and thereby improve overall wharf usage within Pago Pago Harbour. In the event that we gained some access to the canneries business we would again plan on utilization of pipeline supply from our storage area.

ADMINISTRATION PLANNING

(a) *Agency Matters—Burns Philp*

We would propose utilizing the agency services of Burns Philp with whom we have had some forty years of association in other areas of the Pacific, such as Western Samoa, Fiji, Tonga and Papua & New Guinea. Burns Philp have signified their willingness to act on our behalf on matters of shipping, customs, accounts and general administration and we would assume that you would have no objection to such an arrangement.

(b) *Staffing*

As previously indicated and in line with our policy in Pacific national areas, we will train, develop and utilize local Samoan staff for our trading needs. We will require to place a non American Samoan into Pago Pago as Manager, but the employment of local staff for clerical, driving, storage and packing is integral to our planning.

In the anticipation we may be successful in gaining airlines business, we would temporarily require to locate a non American Samoan at Tafuna but inherent in this arrangement would be a training scheme enabling Samoan staff to be trained in Fiji or Australia and in Pago Pago. We would however like your formal approval in this regard and advice on requirements for permits of entry and taxation for non indigenous staff.

We would plan for our total complex to be managed and operated by Samoan nationals when the time is considered mutually desirable and acceptable.

(c) *Housing*

We have built into our plan the provision of a suitable home for our Pago Pago Manager and this is intended to be incorporated with projected Burns Philp staff housing development

out near Tafuna. Beyond this we would not expect involvement with housing for local staff.

(d) *Legal*

To date we have been extended admirable legal co-operation by your Attorney General and in particular Mr. M. Gillette. We would expect to have need for local representation and would respectfully seek your views on the course we might take.

(e) *Remittances*

We have assumed no restraint as remittance of monies from American Samoa and Burns Philp would act on our behalf.

We trust the foregoing is essentially consistent with our earlier negotiations and look forward to your formal acceptance of our proposal in line with the terms presented. Again our sincere thanks for your co-operation.

Yours faithfully,

/s/ R. K. GOSPER
ISLANDS MANAGER
For L. T. FROGGATT

GX-213

VRO/NR212 MELBOURNE 339 18 1930 Page 1/50
LT GOVERNOR JOHN M HAYDON
Pago-Pago

CONFIDENTIAL ONE COINCIDING WITH ARRIVAL YOUR CABLE 15/1 WE HAVE BEEN ADVISED ON PROGRESS IN NEGOTIATIONS BETWEEN OUR ASSOCIATE COMPANY IN NEW YORK ASIATIC PETROLEUM AND SOCAL STOP FOR YOUR INFORMATION SOCAL HAVE ADVISED THAT UNDER NORMAL CIRCUMSTANCES THEY WOULD FULLY EXPLORE ECONOMIS OF SHELLS PROPOSAL HOWEVER AS THEY PRESENTLY DEFENDING ANTI TRUST SUIT FILED BY GOVERNMENT WHICH CHALLENGES LEGALITY OF THEIR SAMOAN OPERATION THEIR ATTORNEYS REQUEST THEY NOT CONSIDER SHELL PROPOSAL UNTIL CASE CONCLUDED STOP SOCAL ARE NATURALLY CONSTRAINED TO OBSERVE THIS ADVICE EVEN THOUGH THEY HAVE GENUINELY INDICATED WILLINGNESS TO CONSIDER JOINT VENTURE STOP TWO IT SEEMS REGRETTABLE THAT THE ANTI TRUST SUIT SCHEDULED FOR HEARING IN JUNE APPEARS THE MAIN PREVENTATIVE TO OUR NEGOTIATING ENTRY INTO AMERICAN SAMOA IN ASSOCIATION WITH SOCAL STOP HOWEVER IT OCCURS TO US THAT IF YOU WERE PREPARED TO COMMUNICATE TO YOUR DEPARTMENT OF COMMERCE IN NEW YORK THE PROSPECT OF AN ARRANGEMENT BETWEEN OUR TWO COMPANIES WHICH WOULD ALLOW FOR THE EXISTENCE OF A COMPETITIVE MARKET SITUATION EITHER EXPEDITE THE HEARING OR EVEN RECONSIDER WHETHER UNDER THE CIRCUMSTANCES GROUNDS FOR THEIR CASE AGAINST SOCAL WOULD CONTINUE TO EXIST STOP THREE IN VIEW OF THE RECEPTIONESS OF SOCAL TO THE POSSIBILITIES OF THE JOINT CONCEPT AS DISCUSSED WITH YOU WE ARE NATURALLY CONTINUING TO PLAN ON POTENTIAL ENTRY STOP HOWEVER WHILST SOCALS LEGAL SUIT CONTINUES TO PREVENT DETAILED DISCUSSION AND PLANNING WE ARE UNCERTAIN TO WHAT EXTENT LAND SPACE ABOVE AND ADJACENT TO THE FISHERIES.

(PAGE TWO)

LT GOVERNOR

MAY BE NEEDED IN YOURS AS WELL AS THE OIL INDUSTRYS INTEREST STOP FOR FROM OUR UNDERSTANDING THE FISHING INDUSTRIES MAIN CONCERN WITH LAND RELATES TO WATERFRONT AND THEIR NEED CAN BE MET WITHOUT FORFEITING TOTAL LAND OPPORTUNITY FOR FUTURE POSSIBLE OIL STORAGE NEEDS STOP FIVE COULD YOU KINDLY

CONVEY YOUR OPINION ON THE AFOREGOING AND IN PARTICULAR ADVISE YOUR WILLINGNESS TO COMMUNICATE WITH YOUR DEPARTMENT OF COMMERCE AS SUGGESTED IN PARA TWO

Regards

Kevin Gosper Careshell

ADDENDUM F

United States v. *Standard Oil Company of California*
N.D. Cal., Civ. No. 52334-SC

pages 153-154

Deposition of Raymond C. Turnbull, Oct. 1, 1970
Direct Examination by Mr. Mussman:

[Referring to DDX 114, set out in Appellant's Appendix, pp. 44-45]

Q. The next paragraph, the fourth paragraph, you say, "To backstop all the petroleum capers that I am working on for you, I had talked to Asiatic Petroleum." Do you see that?

A. Yes.

Q. Do you recall discussing the petroleum deal with Asiatic Petroleum?

A. That's—Asiatic Petroleum and Summit Industrial are one and the same, or one of the subsidiaries.

Q. I see Asiatic Petroleum.

A. It is the Thailand Division of Summit Industrial Corporation.

Q. I thought Asiatic Petroleum was a subsidiary of Shell Oil Company. You aren't thinking of Oceanic Petroleum, are you?

A. I'm sorry, that's part of Summit, isn't it?

Q. I take it from later documents.

A. I wonder if there was—if I put the wrong word in this, and I'll tell you why. Because—Asiatic Petroleum is controlled by whom?

Q. I think it's a subsidiary of Shell Oil Company, Royal Dutch Shell. I'm not going to represent that as being absolute truth.

A. As I told you before, I was in contact with the Shell in Australia and the Shell in Western Samoa. Now, I don't know where this fits, if I used the correct word, Asiatic Petroleum.

Q. Does that name mean anything to you, Mr. Galeon?

A. It sure as hell doesn't.

Q. Does the fact that you had to go to London mean anything to you?

A. Well, it sounds frightfully British.

Q. Well, you just don't recall the contact; is that right?

A. I really don't, at the moment. This would have had—I can—when I read the whole paragraph, I can see then I must have known that it was Shell. The inexorable forces of time have slowed my wit, because I indicate here the two western officials were interested only in price. I did have discussions with them in Western Samoa.

Q. The next sentence in that you say, "At the present time I believe the company that quoted the prices I gave to you will be interested in financing the whole marketing feature in Pago," and so forth. Do you see that?

A. Yes.

Q. Were you referring to Summit there?

A. That could have been. We discussed that phase of it, and then I backed away from that and said he would prefer just to submit it on a CIF basis.

* * * * *

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Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1972

No. 72-1251

Standard Oil Company of California,
Appellant,
v.
United States of America

On Appeal from the United States District Court for the Northern District of California

Reply by Standard Oil Company of California to Memorandum for the United States in Response to Motion to Recall Mandate of This Court and to Grant Leave to the District Court to Consider a Motion to Set Aside Its Judgment for Fraud Upon the Court

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-1251

STANDARD OIL COMPANY OF CALIFORNIA,
Appellant,
v.
UNITED STATES OF AMERICA

On Appeal from the United States District Court for the Northern District of California

Reply by Standard Oil Company of California to Memorandum for the United States in Response to Motion to Recall Mandate of This Court and to Grant Leave to the District Court to Consider a Motion to Set Aside Its Judgment for Fraud Upon the Court

STANDARD OIL COMPANY OF CALIFORNIA ("Standard") files this reply to the memorandum for the United States.

The United States does not oppose a hearing in the District Court (Gov.Mem. 3). However, it contends: (a) the hearing in the District Court should be limited to a claim of *willful* misconduct by United States counsel (Gov.Mem.

3, 15); and (b) this Court, instead of recalling its mandate and granting leave, should hold that the District Court has power to entertain the motion (Gov.Mem. 7). Neither contention has merit.

A. Misconduct by McCook, Turnbull and Lynn:

The United States seeks to isolate the judgment and the findings below from the misconduct by McCook, Turnbull and Lynn. First, it states (Gov.Mem. 11) that the misconduct of the two witnesses and their attorney is merely "newly discovered evidence" under Rule 60(b)(2), and that relief is time barred because the motion was not made within one year after entry of the judgment below. Second, it states (Gov.Mem. 11, 12) that since even perjury by a party, or by a non-party witness, does not constitute a fraud upon the court, the failure by McCook, Turnbull and Lynn to turn over documents in their possession, which would have aided Standard, does not constitute such fraud. The United States is wrong, on both counts:

First, the misconduct by McCook, Turnbull and Lynn was not just "newly discovered evidence." The misconduct was the failure to produce evidence; it included (1) disobedience by McCook and his attorney, Lynn, to subpoenas duces tecum; (2) false representations by Lynn, an officer of the court; (3) false representations by Turnbull, through Lynn; (4) failure by Turnbull to provide to Standard documents that were in his files prior to trial, including documents that he delivered to private attorneys for review; (5) failure by Turnbull to provide to Standard documents that he delivered to the United States, post trial. Because at least one attorney, Lynn, was implicated, this conduct satisfies Moore's definition:

> "* * * [the attorney's] loyalty to the court, as an officer thereof, demands integrity and honest dealing with the court. And when he departs from that standard in the conduct of a case, he perpetrates a fraud upon the court" (7 Moore's *Federal Practice* (2d Ed. 1975) par. 60.33, p. 513).[1]

While the definition of "fraud upon the court" is not precise (*Toscano v. C. I. R.* (9 Cir. 1971) 441 F.2d 930, 933-934), it encompasses, or should encompass, tampering as here (Standard Brief 15-17, 49-65) with the administration of justice (*Hazel-Atlas v. Hartford Co.* (1944) 322 U.S. 238, 248; *Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1963) 320 F.2d 594, 608-610; *Toscano v. C. I. R.* (9 Cir. 1971) 441 F.2d 930, 934-935).

Second, perjury taints the judicial process and, contrary to the United States' assertion, warrants relief (*Imbler v. Pachtman* (1976) 96 S.Ct. 984, 995, n. 34; *Mesarosh v. United States* (1956) 352 U.S. 1, 9). As stated by this Court in *Mesarosh* with respect to perjured testimony:

> "The dignity of the United States Government will not permit the conviction of any person on tainted testimony. This conviction is tainted, and there can be no other just result than to accord petitioners a new trial" (352 U.S. 1, 9).

It added:

> "The government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them" (352 U.S. 1, 14).[2]

---

[1] See *Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 247; *H. K. Porter Co. Inc. v. Goodyear Tire & Rubber Co.* (6 Cir. 1976) 536 F.2d 1115, 1119 ("Since attorneys are officers of the court, their conduct, if dishonest, would constitute fraud on the court").

[2] Because the fraud was not disclosed, but concealed by the false representations by Lynn, and by the failure by the United States to disclose the documents delivered to it by Turnbull post-trial—the delivery occurring four months after this Court affirmed the judgment of the District Court, and within the one year period for a motion under Rule 60(b)(2) or 60(b)(3)—it may be questioned whether a motion, if made pursuant to subdivisions (b)(2) or (b)(3) (rather than pursuant to Rule 60(b)(6)), would be time barred, in view of a possible fraudulent concealment tolling the one-year period (cf. *Holmberg v. Armbrecht* (1946) 327 U.S. 392, 396-397).

The United States contends (Gov.Mem. 12) that it should not be required to relitigate the case because of misconduct by third party witnesses, at this late date; however, in *Mesarosh v. United States* (1956) 352 U.S. 1, 9-10, where but one of seven witnesses may have testified untruthfully, this Court, rejecting a partial concession by the United States that the case be remanded to the District Court for full consideration of the credibility of the witness's testimony, ordered a new trial. And in *Communist Party v. Control Board* (1956) 351 U.S. 115, 124-125, where but three of twenty-two witnesses for the United States were alleged to have perjured themselves, this Court ordered a hearing to determine if perjury had been committed; if perjury had been committed, the Court ordered that the testimony not be left part of the record, and that the Subversive Activities Control Board reconsider its original determination in light of the record as freed from the perjured testimony. This Court stated:

> "The untainted administration of justice is * * * one of the most cherished aspects of our institutions. Its observance is one of our proudest boasts. This Court is charged with supervisory functions in relation to proceedings in the federal courts. * * * [F]astidious regard for the honor of the administration of justice requires the Court to make certain that the doing of justice be made so manifest that only irrational or perverse claims of its disregard can be asserted";

and that:

> "* * * it does not remove the taint for a reviewing court to find that there is ample innocent testimony to support the Board's findings. If these witnesses in fact committed perjury in testifying in other cases on subject matter substantially like that of their testimony in the present proceedings, their testimony in this proceeding is inevitably discredited and the Board's determination must duly take this fact into account. * * * We find it necessary to dispose of the case on the grounds we do, not in order to avoid a constitutional adjudication but because the fair administration of justice requires it" (351 U.S. 115, 124-125).

A withholding of evidence affects the administration of justice, in many instances, more adversely than perjury; it prevents a party from discovering and presenting the facts, fully or adequately.

Further, the United States suggests (Gov.Mem. 13) that Standard has a remedy against McCook, in that the judgment in the suit by the United States is only "prima facie" evidence in the pending treble damage suit, and that Standard can use the newly discovered documents to rebut such evidence. But this begs the question: McCook, who suppressed evidence in this suit, knowing that he was going to rely on the judgment, should not now be permitted to use that judgment. If Turnbull, in addition, deceived the United States by failing to produce all his documents for it—which the United States now claims (Gov.App. 1a-2a)—the United States should not be willing to let the deceit go uncorrected in this suit (cf. *Napue v. Illinois* (1959) 360 U.S. 264, 269).[3]

Were there no sanctions, in the suit by the United States, against a witness like McCook who anticipated a treble damage suit, that witness would benefit from his own unclean hands if he were permitted to offer the judgment in evidence under Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), in the subsequent treble damage suit. If the evidence were suppressed, and not disclosed, he would benefit from the findings and judgment; if the evidence were subsequently disclosed and a new trial granted, he would be in no worse position than if he had disclosed the evidence in the first instance. If the evidence were disclosed one year after judgment, relief under Rule 60(b)(2) and (3) would be time barred—in the United States' view (Gov.Mem. 11)—and plaintiff would be permitted to use the judgment.[4]

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[3] Turnbull was McCook's agent, or "legman," for the preparation of the treble damage suit against Standard since 1968 or 1969 (A. 509); in delivering documents to the United States, he was acting on behalf of McCook (A. 509). If there is a judgment for McCook in the treble damage suit, Turnbull will be "well compensated" by McCook (A. 509); Turnbull will split any recovery, after expenses (McCook Dep., September 24, 1975, pp. 231-232).

Finally, the United States argues (Gov.Mem. 12, n. 14) that neither *District of Columbia v. Stackhouse* (D.C.Cir. 1956) 239 F.2d 62, nor *Precision Co. v. Automotive Co.* (1945) 324 U.S. 806, cited by Standard, is authority for vacating a final judgment on grounds of fraud by a third party witness, where the fraud was not known to either of the parties. These cases were cited to show the types of equitable relief available to Standard, i.e., to strike a finding or deny prospective use of a judgment (see *Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 245: "where courts have exercised the [equity power over judgments obtained by fraud], the relief granted has taken several forms: setting aside the judgment to permit a new trial, altering the terms of the judgment, or restraining the beneficiaries of the judgment from taking any benefit whatever from it")—not the grounds for relief. As to the grounds for relief, Moore states:

> "Granted that a judgment produced by the fraud, misrepresentation, or other misconduct of an independent third person is unjust * * * we believe that * * * Rule [60(b)] does afford the means for relief either under * * * clause (6); or, if the fraud is of such a character that it may be termed a fraud upon the court, then under the power of the court * * * to give relief from this type of fraud" (7 Moore's *Federal Practice* (2d Ed. 1975) par. 60.24 [5], pp. 291-292).

For the reasons stated above and in Standard's brief (pp. 39-42), we submit that the facts as to McCook, Turnbull and Lynn warrant setting aside the judgment or, at a minimum, expunging that part of Finding 67 (A. 774) which is based upon the testimony of McCook, and denying prospective use of the judgment to McCook in the treble damage suit (see *Keystone Co. v. Excavator Co.* (1933) 290 U.S. 240, 245-247).

B. Misconduct by the United States:

The United States represents (Gov.Mem. 13) that the question whether all types of misconduct by a party's attorney constitute fraud upon the court under Rule 60(b) is unresolved, and urges that "* * * a court might well conclude that not all misconduct by a lawyer ordinarily constitutes such fraud." But whether all types of misconduct constitute fraud upon the court is not in issue.

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[4] McCook waited until 11 months after the judgment of the District Court was affirmed by this Court before he filed the treble damage suit (A. 713). He then moved for summary judgment against Standard without disclosure of the new documents (A. 525, 529), arguing that the prior judgment was conclusive evidence of Standard's liability:

> "Standard's blatant failure to produce before this Court any truly new, previously unobtainable evidence to rebut plaintiff's liability case * * * constitutes a failure to raise any genuine issue of material fact. The evidence presented in the government action has already been evaluated by Judge Conti and subsumed under his Findings and Judgment, which now constitute plaintiff's 'evidence'" (A. 739-740).

As noted in Standard's brief (p. 4), the District Court denied the motion, holding that Standard was entitled to a jury trial.

The United States is charged with specific misconduct: (a) failure to produce documents, prior to trial, requested by motion to produce; (b) false representations, prior to trial, that it saw no further documents when, if Turnbull is telling the truth, it did; (3) failure to produce documents, post trial, required by court order.

The failure by the United States to produce material evidence, upon request, warrants relief regardless of the good faith or bad faith of the United States (*Brady v. Maryland* (1963) 373 U.S. 83, 87-88; *United States v. Agurs* (June 24, 1976) 44 U.S. Law Week 5013, 5015). This rule applies to a failure to produce, upon request, specific documents as in the present case, or evidence whose high probative value could not have escaped the United States' attention (*United States v. Agurs* (June 24, 1976) 44 U.S. Law Week 5013, 5015; *United States v. Keogh* (2 Cir. 1968) 391 F.2d 138, 146-147). Further, the negligent failure by the United States to produce material evidence, where requested, is ground for setting aside a judgment (*Brady v. Maryland* (1963) 373 U.S. 83, 87-88; *United States v. Consolidated Laundries Corporation* (2 Cir. 1961) 291 F.2d 563, 570).

In *Agurs,* discussing the function of a specific request, this Court stated (44 U.S. Law Week 5013, 5016):

> "* * * if the subject matter of such a request is material, or indeed if a substantial basis for claiming materiality exists, it is reasonable to require the prosecutor to respond either by furnishing the information or by submitting the problem to the trial judge. When the prosecutor receives a specific and relevant request, the failure to make any response is seldom, if ever, excusable."[5]

The United States contends (Gov.Mem. 14) that the negligent suppression of exculpatory evidence would, at most, support a claim of newly discovered evidence, which is barred by the one year limitation of Rule 60(b)(2), but not fraud upon the court. This position, we believe, is inappropriate for the United States (*United States v. Consolidated Laundries Corporation* (2 Cir. 1961) 291 F.2d 563,

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[5] The United States contends (Gov.Mem. 14) that it is unclear whether Standard is charging the United States with willful misconduct, or merely with negligence, citing an incomplete portion of the transcript in the District Court at the first hearing on the United States' motion for a protective order (A. 740). The transcript shows the following:

> "The Court: Mr. Klitgaard, are you contending that Mr. Hollander intentionally suppressed relevant documents?
>
> "Mr. Klitgaard [counsel for Standard]: We are not contending that, your Honor. We are simply trying to find out what Mr. Turnbull—
>
> "The Court: All right, you have answered my question" (A. 742).

At the rehearing on the motion for the protective order four weeks later, after Standard had discovered further new documents in the files of private antitrust counsel employed by McCook and Turnbull during the prior suit (A. 748; A. 122-123, 124, 125, 141, 152, 153, 154, 155, 158, 160, 161, 162, 170-171, 172-173, 177, 182, 183, 186-188, 200-220, 228, 229-230, 256, 261, 262-263), and after Standard had informed the Court that Turnbull had testified that he had not delivered any documents to those attorneys that he had not delivered to the United States (A. 731), Standard stated:

> "It is our position in this case that there was a suppression by McCook, Turnbull and Lynn in the prior case * * *" (A. 749);

and added:

> "The matter is complicated to some degree by a suppression of the Government both post-trial, as shown by its own records, by the documents produced in Mr. Hollander's affidavit, and pretrial if the testimony of Mr. Turnbull is to be believed" (A. 749).

571; *United States v. Zborowski* (2 Cir. 1959) 271 F.2d 661, 667-668; cf. *Bros Incorporated v. W. E. Grace Manufacturing Company* (5 Cir. 1965) 351 F.2d 208, 211). If the United States in fact negligently suppressed evidence despite a motion to produce, repeated specific requests for documents, and a subsequent post-trial court order, the judgment is tainted and the United States, we submit, should want to have the judgment set aside and provide Standard with a full opportunity to present its defense (cf. *Mesarosh v. United States* (1956) 352 U.S. 1, 4).[6]

The United States, referring (Gov.Mem. 14) to the cases cited by Standard where judgments have been set aside because of the United States' failure to produce exculpatory material in its possession, states that these cases were all criminal cases which "implicate the constitutional rights" of the defendant and involve "quite different considerations" from Standard's attempt to vacate the judgment in the United States' civil antitrust suit.

First, a civil suit by the United States under the Sherman Act is a quasi-criminal proceeding (see *State of Iowa v. Union Asphalt & Roadoils, Inc.* (S.D.Iowa 1968) 281 F.Supp. 391, 407; *In re Petroleum Industry Investigation* (E.D.Va. 1957) 152 F.Supp. 646, 647).

Second, the requirement of due process is not limited to criminal prosecutions but applies to civil cases as well (e.g., *Boyd v. United States* (1886) 116 U.S. 616, 634; *Brinkerhoff-Faris Co. v. Hill* (1930) 281 U.S. 673, 679-682;

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[6] Indeed, if the one-year period were applicable and had run, it would be because the United States, within the one-year period, failed to disclose to Standard the fact that it had received new documents previously unproduced from Turnbull, post trial. Had the United States immediately, and forthrightly, brought these documents to the attention of Standard, or informed the District Court of their existence, Standard would have been in a position to seek relief within the one-year period. Instead, the United States now contends as a defense to Standard's motion that Turnbull, who once had knowledge of the facts, can no longer remember them (Gov.App. 1a-2a; see also A. 724).

Equal Employ. Op. Com'n. v. Los Alamos Constructors, Inc. (D.N.M. 1974) 382 F.Supp. 1373, 1383, n. 5) and "[w]hatever disagreement there may be as to the scope of the phrase 'due process of law,' there can be no doubt that it embraces the fundamental conception of a fair trial, with opportunity to be heard" (*Frank v. Mangum* (1915) 237 U.S. 309, 347, Holmes, J., dissenting).

Finally, the United States contends (Gov.Mem. 14) that evaluation of Standard's charges against the United States would require a detailed analysis by the District Court of a substantial amount of documentary material and testimony, involving comparison of the newly discovered evidence with the evidence at trial. At the same time, it asks this Court to rule, without a full factual record, that the standard for culpability by the United States be limited to a claim of willful misconduct by United States' counsel. We believe that the proper procedure is first to develop the factual record, then determine and apply the standards (*United States v. Shotwell Mfg. Co.* (1957) 355 U.S. 233, 241; *Campbell v. United States* (1961) 365 U.S. 85, 98). In *Shotwell*, where this procedure was followed, this Court stated:

> "In these circumstances it is imperative that the case be remanded to the District Court for a full exploration of where the truth lies before the case is allowed to proceed further. The integrity of the judicial process demands no less" (355 U.S. 233, 241).[7]

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[7] The United States, in an appendix to its memorandum, seeks to demonstrate (Gov.App. 1a) that the evidence refutes the allegations of misconduct by the United States. Standard's brief outlines the evidence, to date, of misconduct (pp. 29-36, 49-65), and in the addendum to this reply (pp. 15-18, *infra*), we set forth evidence which rebuts the United States' contentions.

Further, the United States argues (Gov.Mem. 13) that none of the new documents presents new exculpatory information for Standard, and (Gov.App. 5a) that none of the new documents contains information that was unavailable to Standard at the time of the United States' suit. In reply, we refer the Court to the review of the documents in Standard's brief (pp. 18-28) and to the brief additional comments in the addendum hereto (pp. 18-20, *infra*).

C. Recall of Mandate; Leave to File Motion:

The United States argues (Gov.Mem. 7) that it is inappropriate, and unnecessary, for this Court to recall its mandate to permit the District Court to grant effective relief. It further asks this Court to rule that leave of the appellate court is not required to file a motion under Rule 60(b) to vacate a judgment, where the judgment has been affirmed on appeal (Gov.Mem. 7). As to the latter point, the United States concedes (Gov.Mem. 5, n. 7) that its request is inconsistent with the decisions of the Courts of Appeals for six of the seven Circuits that have decided the question. Both rulings would also be inconsistent with prior decisions of this Court (*Southard v. Russell* (1853) 57 U.S. (16 How.) 547, 570; *In re Sanford Fork & Tool Co.* (1895) 160 U.S. 247, 255; *In re Potts* (1897) 166 U.S. 263, 267-268; *National Brake Co. v. Christensen* (1921) 254 U.S. 425, 430-432; *Duke Power Co. v. Greenwood Co.* (1936) 299 U.S. 259, 267-268; *Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 248).

We believe that the existing procedures are supported by sound reasons (*Southard v. Russell* (1853) 57 U.S. (16 How.) 547, 570; *Tribble v. Bruin* (4 Cir. 1960) 279 F.2d 424, 427-428; see also 7 Moore's *Federal Practice* (2d Ed. 1975) par. 60.30[2], pp. 425-429) and accord proper deference to the appellate court (*Simmons Co. v. Grier Bros. Co.* (1922) 258 U.S. 82, 91). Accordingly, we submit that the appropriate relief is to grant the motion to recall the mandate of this Court and grant leave to the District Court to consider Standard's motion to set aside the judgment.

If, however, this Court should overrule its prior decisions and hold that leave of the Court is not required before Standard may file its motion in the District Court, and that the District Court may grant relief without recall of the mandate, this Court should enter an order directing the District Court to entertain the motion, take testimony, make findings and decree appropriate relief.

CONCLUSION

The motion to recall the mandate of this Court and to grant leave to the District Court to consider a motion under Rule 60(b) should be granted.

Dated: September 17, 1976.

Respectfully submitted,

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Addendum

1. United States Memorandum, "Appendix A": Misconduct by the United States:

The United States contends (Gov.App. 1a) that Standard's charge of wrongdoing by the United States' trial attorney is based solely upon testimony given by Mr. Turnbull in November, 1975; it states that Mr. Turnbull's "entire testimony shows that Turnbull was not testifying to a specific recollection, but from an 'assumption,' a mental reconstruction of what he thought must have happened." The United States is wrong, for two reasons: *First*, Mr. Turnbull testified as to an assumption only as to whether the United States' trial attorney took all of the documents which were provided to him at Mr. Turnbull's office.[8] If the United States looked at documents, but did not take them, this is further evidence that the United States was aware, as early as 1969, that Turnbull still had additional documents. *Second*, Turnbull testified, document by document, as to the documents that he made available (Standard Brief 34); he testified, without qualification, that he did not deliver any documents to Lynn, or to the private attorneys in San Diego, that he did not also deliver to Mr. Hollander (Standard Brief 33-34); yet documents were found in the files of both attorneys in the present treble damage suit which the United States did not produce to Standard (Standard Brief 70).

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[8] Mr. Turnbull testified:

> "Q. • • • [W]as [SDX 93-96] among the documents you turned over to Mr. Hollander?
>
> "A. I don't know. I am saying everything was back there for him to take, so it would be an assumption on my part that he took them" (A. 596).

He also testified:

> "Q. • • • [W]hen Mr. Hollander came to your office, did he just ask to see the documents that passed back and forth between you and Governor Lee, or did he ask you to see all your files on American Samoa?
>
> "A. All the files.
>
> "Q. How did he phrase that? Did he ask to see all your documents concerning American Samoa?
>
> "A. Everything, yes.
>
> "Q. Involving petroleum products, that is?
>
> "A. Yes" (A. 563).

and that:

> "When he took all of the material, he says, 'I am going to look through this file, and I am only going to take out what I want to take out of it.' So he took it" (A. 566).

The United States contends (Gov.App. 2a) that the reliability of Turnbull's present recollection, that he turned over to the United States all the documents recently produced to Standard, is weakened by (a) the receipt given by the United States to Turnbull in October, 1969, for documents, and (b) the receipt signed by Turnbull in November, 1969, upon return of the documents. Mr. Turnbull, to the contrary, testified that he recalled receiving two packages of documents from Mr. Hollander: one, a smaller package, second a larger package. He testified:

> "When Mr. Hollander came to my office, he said, 'I want all you have,' and I said it doesn't all apply to you. 'That's okay, I will take it back to Washington, look through it and give you back the things and only take out what we need.'
>
> * * * * *
>
> "So I got two sets or three sets of documents. I think the first batch was stuff he didn't use.
>
> "Q. And the second batch was Tu-
>
> "A. Then I got the Tu numbers.[9]
>
> "Q. And was that in the second batch?

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[9] The documents with "Tu" numbers were the documents produced by the United States for Standard in April, 1970, from the files of Turnbull (Standard Brief 50).

> "A. I think it was in the second batch" (A. 578).

He further testified:

> "Q. By * * * the 1st of April, 1971, had you received back from Mr. Hollander the documents which you had given to him?
>
> "A. Yes.
>
> "Q. And you received those back in two envelopes; correct?
>
> "A. Different times, yes.
>
> "Q. One big envelope and one thin envelope?
>
> "A. One larger than the other, yes" (A. 588-589).

As to the failure by the United States to produce documents post trial, under the Court's order, the United States admits (Gov.App. 3a) that it did not deliver to Standard the documents attached to the Turnbull letter dated October 4, 1973 (A. 436-457). It states (Gov.App. 3a) that the attached documents were not turned over to Standard because they did not relate to Standard's relief plan, but instead sought to promote a project which Turnbull had been "pushing" for a number of years at Nu'Uli Lagoon (A. 437-457). To the contrary, the documents related directly to the relief plan, and to the issues at trial (Standard Brief 35-36, 63-65).

The United States further argues (Gov.App. 4a) that the text of the letter dated October 4, 1973, from Turnbull described the attached documents, and that the existence of the documents was shown by a reference to "14 Enclosures" at the bottom[10]. However, the letter on its face did not show that the enclosures related to petroleum supply in American Samoa, or to the period 1963-1965; instead, the letter described the enclosures as relating solely to dredging (A. 436). To quote the letter:

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[10] The 14 enclosures were 2 photographs, and 12 letters or memoranda between Turnbull and Dillingham dated 1963-1965 (A. 437-457).

> "It is proposed that Nu'Uli Lagoon be dredged and the dredged material used as backfill to create eighty five new acres of deep water frontage. Both industry and government can share the cost. *Attached hereto is some correspondence with Dillingham on the feasibility of such a project*" (emphasis added) (A. 436).[11]

Finally, the United States argues (Gov.App. 4a) that its failure to produce the enclosures did not violate the District Court's order, because the attachments to Turnbull's letter would not have supported Standard's proposal for relief. However, the United States was obliged to make a complete disclosure not a partial one (cf. *Griffin v. United States* (D.C.Cir. 1950) 183 F.2d 990, 993: "* * * the prosecution is not to decide for the court what is admissible or for the defense what is useful").

2. United States Memorandum, "Appendix B": Information Not Available to Standard at Trial:

The United States contends (Gov.App. 5a) that the absence of the documents did not affect the result of the original trial, although it concedes that its analysis of the documents is not decisive of the issues presented by Standard in the motion. In any event, this Court in *Hazel-Atlas* held that parties who commit a fraud upon the court are in no position to question its effectiveness (*Hazel-Atlas Co. v. Hartford Co.* (1944) 322 U.S. 238, 247).

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[11] At the hearing on relief, October 23, 1973, the United States suggested (A. 460-461) to the District Court that suppliers had submitted comments to the United States on Standard's plan in confidence. The District Court ordered the United States to send the letters to Standard, but added: "If they write a letter to [the United States] in confidence because of certain business secrets * * * or certain procedures, then * * * let me read it *in camera* and decide" (A. 462). We do not understand the United States to contend that the 14 enclosures were submitted to it in confidence, or that having submitted them to the District Court, they were withheld on court order.

The United States argues (Gov.App. 5a) that Standard's analysis of certain new documents is based upon a selective statement of facts and previous evidence. This is not true; a cursory glance at these documents shows the conflicts between them, the testimony by McCook and Turnbull, and the documents initially produced by Turnbull (Standard Brief 19-28). Other documents also were exculpatory. For example, the United States argues (Gov.App. 8a) that it was the October 25, 1965, price reduction on diesel fuel to the Government of American Samoa, and McCook's realization that Standard would better any offer he could make, that dissuaded McCook from entering the market. Yet a document not produced in the prior case shows that Turnbull and McCook foresaw competition, including a price reduction, at the time McCook submitted his proposal:

> "Our interest in establishing the facility is geared to supplying all of the government's and industry's requirements through a reasonable period of investment return. * * * [*I*]*n the absence of contracts to protect ourselves, we would be exposed to temporary price cutting* [by Standard] * * *" (emphasis added) (A. 184).

Finally, the United States argues (Gov.Mem. 13, n. 15; Gov. App. 10a) that the documents by Standard are "mostly" cumulative, and do not contain any new evidence. However, the documents include, *inter alia,* the following new evidence:

(a) contacts between McCook and Governor Lee following McCook's proposal, not disclosed before (A. 189, 190);

(b) details on financing, not disclosed before (A. 172, 174);

(c) details on inquiries concerning the financial strength of McCook's supplier, not disclosed before (A. 186-189);

(d) statement that Turnbull and his associates were ready, subject to the Governor's approval, to construct a petroleum terminal in Samoa after Standard's price reductions (A. 191);

(e) facts concerning a possible Shell-Turnbull venture, heretofore undisclosed, in August, 1965, indicating that Shell was not foreclosed from the market (A. 177, 183); and

(f) details concerning a secret split of profits between Turnbull and McCook's supplier (A. 174, 176, 178-179, 180).

* * * * * * *